

Page 1

1 IN THE UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF OHIO
3 WESTERN DIVISION AT DAYTON

4 | * * *

5 CLIFFORD OWENSBY,

6 Plaintiff,

7 | VS. CASE NO.

3 : 21-cv-00343-MJN-CHG

8 CITY OF DAYTON,

9 et al.,

10 Defendants.

* * *

12 Deposition of CLIFFORD OWENSBY,

13 Plaintiff herein, called by the Defendants for
14 cross-examination pursuant to the Rules of Civil
15 Procedure, taken before me, Karen M. Rudd, a
16 Notary Public in and for the State of Ohio, at
17 the offices of Dayton City Hall, 101 W. Third
18 Street, Dayton, Ohio, on Thursday,
19 February 9, 2023, at 9:21 a.m.

* * *

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21 * * *

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1 CLIFFORD OWENSBY
2 of lawful age, Plaintiff herein, having been
3 first duly cautioned and sworn, as hereinafter
4 certified, was examined and said as follows:

5 CROSS-EXAMINATION

6 BY MR. BAZELAK:

7 Q. Good morning, sir. My name is Len
8 Bazelak, and I'm an attorney for the City of
9 Dayton in the lawsuit that you've filed against
10 the city.

11 I'm going to ask you a series of
12 questions today. It's called a deposition.
13 Have you ever had your deposition taken before?

14 A. No.

15 Q. All right. Just a few ground rules
16 so that we're on the same page. First of all,
17 you have to give audible or verbal responses to
18 my questions so our court reporter here can take
19 down your answers. Okay?

20 A. Yes.

21 Q. All right. You're doing well with
22 that. So, secondly, if you don't understand one
23 of my questions, which certainly could happen in
24 this deposition, just please let me know, and
25 I'll try to rephrase the question so that it's

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1 clarified. Okay?

2 A. Yes.

3 Q. All right. Another ground rule,
4 again, for the benefit of the court reporter
5 here, please let me finish my question before
6 you start to respond so that we're not talking
7 over each other. It will make life much more
8 difficult for our court reporter. Does that
9 make sense?

10 A. Yes.

11 Q. All right. If you need to take a
12 break, sir, at any time, please let me know. As
13 long as it's not during a pending question, feel
14 free to take whatever breaks that you need to.
15 Does that make sense?

16 A. Yes.

17 Q. All right. Why don't you go ahead
18 and tell us your full name, please.

19 A. Clifford Devaughn Owensby.

20 Q. And what is your current address,
21 Mr. Owensby?

22 A. 1709 West Grand Avenue, Apartment 3,
23 Dayton, Ohio, 45402.

24 Q. And who do you reside with, if
25 anybody, at the Grand Avenue address?

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1 A. My two oldest children, CeeJaye
2 Owensby, Clifford Owensby, Jr.

3 Q. So CeeJaye Owensby and Clifford
4 Owensby are your two oldest children?

5 A. Correct.

6 Q. How old is CeeJaye?

7 A. She is about to be 17. Well,
8 actually, she is 17. She was born 6-3-05.

9 Q. And then Clifford?

10 A. He is 15. He was born 3-5-07.

11 Q. Have you ever been married, sir?

12 A. No.

13 Q. Other than CeeJaye and Clifford, do
14 you have any other children?

15 A. Yes.

16 Q. Okay. Can you tell me their names
17 and ages?

18 A. Yes. Okay. We've got Shevaughn
19 Owensby, and August 15th -- you've got to
20 forgive me, I'm -- I'm not like savvy with the
21 years. It's kind of hard to remember each year.
22 But she is the third child, and I believe -- I
23 believe 2012 or '13. I'm not sure the exact
24 year.

25 Then you have Shyona Owensby. Her

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1 birthday is 11-05. And the years is -- it's
2 kind of hard to keep up with the years when
3 you've got so many kids. Those are my
4 biological children right there.

5 Q. Okay.

6 A. Then I have three that I help take
7 care of, as well.

8 Q. Okay. Who is CeeJaye and
9 Clifford's mother?

10 A. Jasmine Lyna Hughes. She's
11 deceased.

12 Q. How did she die?

13 A. I'm not sure what the ruling of her
14 death was, but she passed like -- she passed
15 maybe five, six years ago roughly. I'm not sure
16 of the exact date, but it's been a while.

17 Q. Okay. And then the other two, I
18 think those were both girls?

19 A. Correct.

20 Q. Who is their mother?

21 A. Shenae Campbell.

22 Q. And where does she live?

23 A. In Dayton, Ohio.

24 Q. Do you know her address?

25 A. I'm not sure of the address.

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1 Q. And then the three kids that you
2 help take care of, who is their mother?

3 A. One of them is Shenae Campbell,
4 it's her child. Then the other two is the woman
5 that I'm currently with now.

6 Q. Okay. And who are you currently
7 with?

8 A. Chaniece Laney.

9 Q. L A N E Y?

10 A. Correct.

11 Q. Where does she live?

12 A. In Dayton, Ohio.

13 Q. Her address?

14 A. I believe it's -- I'm not sure of
15 the address.

16 Q. Okay. So she is your current
17 girlfriend; is that correct?

18 A. Correct.

19 Q. All right. And she has got --

20 A. Two children.

21 Q. -- two children who you help out
22 with?

23 A. Correct.

24 Q. Any other children?

25 A. No.

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1 Q. When you say help out with, what do
2 you do in terms of helping out with those
3 children?

4 A. Help them get to and from school.
5 Pretty much like clothes, food. The same things
6 that I help out with with my children, as well.

7 Q. Do you pay support for them at all?

8 A. No support.

9 Q. No court-ordered support?

10 A. No.

11 Q. Just some financial assistance?

12 A. Correct. I'm not on child support
13 for any of them.

14 Q. Okay. We're going to get into your
15 medical history, but is there anybody currently
16 that helps out with your own medical situation?

17 You said you live at Grand Avenue
18 in that apartment. Is there somebody that comes
19 in and helps and assists you with your medical
20 care?

21 A. At this time, I just get assistance
22 from my two oldest children mainly, and from
23 time to time I've got family members that come
24 and check in on me and stuff like that.

25 Q. Before you started the deposition

Page 10

1 here, you mentioned something about your mother.

2 A. Uh-huh.

3 Q. Does she help out with your medical
4 care?

5 A. When she can, but she's usually
6 helping out my sister and her children, as well.

7 Q. You have one sister?

8 A. No, I have -- my mom has nine kids,
9 so --

10 Q. Okay.

11 A. Do you want me to run down those
12 names?

13 Q. I don't, no. Your mom helps out
14 with the other kids a lot, and then from time to
15 time helps out with you; is that fair?

16 A. As much as she can, yes.

17 Q. All right. Let's talk about your
18 educational background. I think you went to
19 Colonel White High School; is that right?

20 A. Correct.

21 Q. Did you graduate?

22 A. Yes.

23 Q. What year?

24 A. 2000.

25 Q. Any education past high school?

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1 A. I have some college education,
2 Sinclair.

3 Q. When did you take classes at
4 Sinclair?

5 A. I'm not sure of the year, but it
6 was quite a while after I graduated. Maybe
7 2013. I took up business management and real
8 estate.

9 Q. How many classes did you take at
10 Sinclair?

11 A. I can't remember the exact amount
12 of classes, but I did drop out, so --

13 Q. So you didn't get any type of
14 associate's degree or anything from Sinclair,
15 but you did take a few classes; is that fair?

16 A. Correct.

17 Q. And that was around the 2013 time
18 frame?

19 A. Correct.

20 Q. All right. Any other formal
21 training or education after high school?

22 A. No.

23 Q. Did you do any sports or anything
24 in high school?

25 A. No.

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1 Q. We're going to talk about your
2 employment and businesses and the work that
3 you've done since high school, but other than
4 that, I mean, what do you like -- what are your
5 hobbies? What do you like to do?

6 A. I like to draw. I also do poetry.
7 I'm pretty acrobatic. I like to do flips and
8 stuff pretty much, like gymnastics. I like to
9 work with my hands.

10 Q. All right. After high school, can
11 you kind of take us through your employment,
12 jobs that you've had since high school?

13 A. It's going back, but I can do my
14 best. I remember having -- well, you said after
15 high school, right?

16 Q. Right.

17 A. Okay. So I remember being employed
18 at Arby's. That was my first real job outside
19 of, you know, I was in the youth program
20 where -- Jobs for Graduates, and stuff like
21 that, where we rode on the back of the
22 paramedics and with the firefighters and on
23 their routes and had to do training and stuff
24 like that, but -- you know, running in and out
25 of burning buildings and carrying like the test

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1 dummies, stuff like that, with apparatus, full
2 gear and stuff like that on. Other than that --

3 Q. Was that a full-time job?

4 A. It was like a summer program.

5 Q. Okay. How long did you do that?

6 A. Three or four years.

7 Q. Just in the summers though?

8 A. Correct.

9 Q. Is that while you were working for
10 Arby's?

11 A. No. No, that was -- that was
12 pretty much before Arby's.

13 Q. Okay. How long did you work for
14 Arby's?

15 A. Arby's lasted, I'm thinking, maybe
16 six months max.

17 Q. Okay. What's the next thing you
18 remember? Kind of go as chronologically as you
19 can.

20 A. Right. Jiffy Lube. I used to work
21 at Jiffy Lube changing oil and doing mechanic
22 work. After Jiffy Lube, I remember doing
23 deliveries for like Macy's and Lazarus. And we
24 delivered not only furniture and stuff, but
25 appliances and stuff, as well. I did that for a

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1 few years. And then after that, I got into real
2 estate.

3 Q. Anything else you can remember in
4 terms of any significant employment with any
5 employers before you got into the real estate?

6 A. Well, around the same time and
7 still after, like during the time I was in the
8 real estate, I worked for the City of Dayton
9 Water Reclamation Plant, waste treatment plant.

10 Q. When did you do that?

11 A. I can't remember the exact year,
12 but I did do it for a couple of years.

13 Q. Do you remember who you worked for
14 out there?

15 A. The waste treatment water plant
16 right off of Nicholas Road. I got that job
17 through a temp agency, but it lasted for a
18 couple years until the contract was up, and then
19 pretty much was let go after that.

20 Q. Okay. Anything else?

21 A. Pretty much, you know, just like
22 working for myself, you know, to try to build my
23 career after that.

24 Q. When was the last time that you had
25 any type of like employment with an employer

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1 working for somebody else, getting a paycheck
2 from an employer?

3 A. That was the City of Dayton, the
4 water reclamation plant.

5 Q. And you don't remember when that
6 was?

7 A. Not exactly.

8 Q. Ten years ago?

9 A. It's 2023 now. I can't remember
10 the exact year, but I'm sure that once I look in
11 my paperwork, I can probably figure that out.

12 Q. So all the jobs that you talked
13 about, that's basically how you generated income
14 and survived financially up until the time that
15 you went into like real estate?

16 A. Correct.

17 Q. Okay. And so when did you start
18 getting into the real estate?

19 A. It was -- it was, I want to say,
20 2013, because it was at the same time that I was
21 going to Sinclair taking up the classes and
22 stuff.

23 Q. Okay. So from 2000 to essentially
24 2013, after you graduated from high school, you
25 told us kind of all the jobs that you had to

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1 make income and pay your bills, do whatever --

2 A. Uh-huh.

3 Q. -- until about 2013, when you
4 started taking classes -- some classes at
5 Sinclair, and then got into real estate?

6 A. Correct.

7 Q. All right. When you say you got
8 into real estate, what did you do?

9 A. I was -- started off like just
10 working with like -- like people just, you know,
11 helping fix up their like properties and stuff
12 like that. And, you know, I found a love and
13 then started doing the stuff for myself.

14 Q. And so it sounds like you did hook
15 up with some business that did that?

16 A. Just like if people needed help
17 with stuff like that, they will call me and see
18 if I was available pretty much. So it wasn't
19 like a full-time job. Call it a hobby. But I
20 liked it.

21 Q. Who would call you when you first
22 got started? This is like rehabbing properties?

23 A. Correct.

24 Q. Is that what you're talking about?

25 A. Correct. I started out with

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1 Habitat of Humanity, so that's where I kind of
2 picked up on the trade and skills, volunteer
3 work.

4 Q. All right. And then did you start
5 doing that as a way of generating income for
6 yourself, or when did that happen?

7 A. Can you rephrase that question for
8 me?

9 Q. Yeah. So you said you got into
10 real estate. And I'm just wondering how you
11 made money doing that.

12 A. Well --

13 Q. It sounds like Habitat was a
14 volunteer job, but eventually --

15 A. Yeah, but that was just to get the
16 skills that I needed to be able to -- you know,
17 be able to do anything. So I basically picked
18 up on -- from all the skills that I learned, and
19 I used them to my advantage to help other people
20 and save the money up until I was able to afford
21 my own property.

22 Q. Okay. So you would get just paid
23 by -- who would you get paid by to save the
24 money up?

25 A. Well, from the previous jobs and

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1 stuff that I had, I had money saved up. And
2 then like I would work for churches and stuff
3 like that, you know, to get whatever funds that
4 I could to save up and stuff like that.

5 Q. All right. Eventually you formed
6 some type of -- you formed several types of
7 businesses over the years I think since 2013.

8 A. Uh-huh.

9 Q. One of them was called CeeJaye and
10 CJ Home Improvement, and then CeeJaye and CJ
11 Lawn Care, LLC?

12 A. Correct.

13 Q. Tell me about those businesses.
14 What are those businesses?

15 A. The home improvement is pretty much
16 self-explanatory. We rehab residential homes,
17 painting, flooring, drywall, roofing.
18 Everything but concrete work. I didn't really
19 get a chance to learn that much of that concrete
20 work, so --

21 Q. All right. It looks like those
22 businesses were formed in like the 2017 time
23 frame?

24 A. Correct.

25 Q. Does that make sense?

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1 A. Correct.

2 Q. What I'm trying to get an
3 understanding of, Mr. Owensby, is since 2013,
4 where you went to the real estate classes, and
5 then you said you would just go to churches and
6 work and just make some money --

7 A. Side jobs.

8 Q. -- doing odd jobs, side jobs,
9 right --

10 A. Uh-huh.

11 Q. -- from that time up until the time
12 you organized your business, was it just the
13 same, you would just do odd jobs, or did you --

14 A. No, I was --

15 Q. Were you in business and just
16 not --

17 A. I was still working for contractors
18 and stuff doing the deliveries, like the
19 furniture and the appliances and stuff.

20 Q. Okay. Really, I'm just trying to
21 figure out the sources of your income over the
22 years. That's kind of really -- so if you can
23 tell me what you remember back during that time
24 frame of any sources of income that you had,
25 whether it was working for somebody, who you

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1 worked for, your own self-employment income, and
2 how you generated that income, that's what I'm
3 interested in.

4 A. Right. I also got a settlement
5 from a couple car accidents and stuff like that,
6 so that's where some of the income came in, as
7 well, which really, you know, boosted me to be
8 able to provide for myself on the first property
9 that I invested in, so --

10 Q. Okay. We'll talk about those. I'm
11 just going to go through -- as a way to organize
12 this, just kind of go through your other
13 businesses, and if you can tell me about those.
14 Daniels Industrial Cleaning Service, do you know
15 what that is?

16 A. Yes.

17 Q. What is that?

18 A. A cleaning service that I own. I
19 started that. That was one of the first
20 businesses that I started to, you know, try to
21 get, you know, contracts to be able to -- you
22 know, just doing like -- started cleaning out
23 houses and like a lot of cleaning and stuff like
24 that. But it wasn't -- I didn't have that many
25 employees, so that didn't last long at all. So

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1 if you want to call it a failed business --

2 Q. Okay. You mentioned employees.

3 Did you have employees for Daniels Industrial?

4 A. Family members that I worked with.

5 Q. Which family members were your
6 employees for that business?

7 A. My little brothers, Storm Smith and
8 Sean Smith.

9 Q. Okay. Did you ever have like
10 actual employees for CeeJaye or CeeJaye and CJ
11 Lawn Care?

12 A. No, I just do subcontractors.

13 Q. When you say you do subcontractors,
14 tell me about that. What do you mean?

15 A. Finding contractors that can
16 actually do the work, and then I hire them to
17 give me estimates on the job, and then put my
18 price on top of it to benefit from the business.

19 Q. Who are the subcontractors that you
20 work with for CeeJaye?

21 A. One of them -- let me tell you the
22 exact name. Hold on. Wireman Services.

23 Q. Wireman, W I R E M A N?

24 A. Correct. And that's an
25 electrician. Because I got it in my emails. I

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1 don't want to tell you the wrong name. White's
2 Plumbing. Let me see.

3 Q. Who is Wireman -- and I'll let you
4 finish, but Wireman Services, who is the actual
5 person that runs that business and subcontracts
6 with you?

7 A. I believe it's Jody Williams. I
8 think that's his last name.

9 Q. Do you have any contact
10 information --

11 A. Yes.

12 Q. -- for Jody Williams?

13 A. Yes. (937) 613-4277.

14 Q. Okay. He is an electrician?

15 A. Correct.

16 Q. And then White's -- did you say
17 White's Plumbing?

18 A. White's Plumbing.

19 Q. Who is that?

20 A. I can't remember the exact person,
21 because they had a crew that they had come in.
22 So I'm not sure. I can't remember the name of
23 whoever was running the show.

24 But I got rid of them, because
25 they -- they basically did faulty work and kept

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1 complaining about having bigger contracts that
2 they needed to -- you know, that they were
3 basically trying to focus on instead of doing
4 the proper work that needed to be done. So I
5 had to get rid of them.

6 Q. So when you -- let's just go
7 through. Any other subcontractors that you can
8 tell me about over the years?

9 A. I can't remember everybody's name
10 just right offhand. I have to do some research
11 to be able to get you the names of businesses
12 and stuff, but I can get them for you.

13 Q. All right. If you can do that and
14 provide those names and contact information of
15 the businesses and individuals involved in those
16 companies that do work for you --

17 A. Uh-huh.

18 Q. -- over the years for your
19 businesses, and provide that to your attorney.

20 A. Uh-huh.

21 Q. Okay? And then also any -- other
22 than the names and info, any -- well, let me
23 just ask you, do you have any documentation with
24 regard to your contracts, subcontracts, with all
25 these companies that have done work for you?

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1 A. A lot of them are just verbal
2 contracts or like, you know, handshake and stuff
3 like that. But I don't have a lot of
4 documentation, because I wasn't -- I wasn't sure
5 if they were going to be able to complete the
6 jobs and stuff like that. I was just testing
7 them out to see the type of work and stuff they
8 did.

9 Q. When you say jobs, can you give me
10 some of the major jobs that you did with CeeJaye
11 over the years? Did you have regular repeat
12 customers? Did you --

13 A. Pretty much word of mouth. Pretty
14 much word of mouth.

15 Q. Can you tell me a couple jobs that
16 you did for CeeJaye with these contractors?

17 A. Let's see. Fixed up 1954 West
18 Grand Avenue.

19 Q. Is that one of your properties?

20 A. Correct. Also 3643 Dandridge
21 Drive, 4704 Forsythe, 4651 Bluehaven, 330 Middle
22 Street.

23 Q. So -- do any other ones come to
24 mind?

25 A. Not right offhand. I can pretty

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1 much try to get you a list of those.

2 Q. It sounds like you would purchase
3 properties yourself or through your business and
4 then you would hire people or do the work
5 yourself up until a certain point, or
6 subcontract people -- and subcontract people and
7 then fix up the house and try to sell them to
8 generate some money?

9 A. Or rent them out.

10 Q. Or rent them out?

11 A. Uh-huh.

12 Q. Okay. So those are pretty much the
13 jobs that you talked about?

14 A. The main ones.

15 Q. There may be some other ones, but
16 that's the main thing that you did over the
17 years?

18 A. Correct.

19 Q. All right. And any other employees
20 that you had that helped you or subcontractors
21 that helped you do that work that you can recall
22 at this time? I know you're going to check on
23 that and provide that to your attorney.

24 A. Not right offhand.

25 Q. All right. What is Surge Services?

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1 A. A company that I started that I
2 wanted to be able to try to do multi -- multiple
3 things that didn't last for me, as well. So
4 another failed business opportunity.

5 Q. What was the business supposed to
6 do?

7 A. Pretty much you name it. Lawn
8 care, home improvement, anything that -- any
9 services that you can think of that's needed.

10 Q. Who helped you organize these
11 businesses? Did you have an attorney do that
12 for you?

13 A. No.

14 Q. You did that on your own?

15 A. Correct.

16 Q. Have you had an accountant that has
17 helped out with any of your businesses to help
18 you with taxes and financial matters?

19 A. No.

20 Q. Who has helped you at all with
21 filing of taxes for the businesses or you as an
22 individual over the years?

23 A. My mother.

24 Q. Does she have any background or
25 training?

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1 A. Yes.

2 Q. What is her background and
3 training?

4 A. She's a tax accountant now.

5 Q. When you say now, when did she get
6 that?

7 A. Well, she has plenty of -- let me
8 see, plenty of experience with filing taxes and
9 like helping other people file their taxes and
10 stuff like that. That's what she does. I'm not
11 sure what you want to call the name, but, I
12 mean, if you want to ask her, she can probably --

13 Q. Okay.

14 A. -- give you whatever answers that
15 you need.

16 Q. Would she have records or documents
17 pertaining to your businesses and tax filings
18 and things like that?

19 A. I believe so.

20 Q. And all of these businesses are
21 what are called LLCs. Are you the only member
22 of the corporations?

23 A. Yes.

24 Q. No other -- no one else has a share
25 in these companies other than you?

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1 A. Correct.

2 Q. Your mom doesn't have a share in
3 them?

4 A. No.

5 Q. All right. Let's talk about then
6 the properties that you own, sir. Can you tell
7 me what properties -- that's the disadvantage of
8 opening the windows. Nice temperature in here,
9 but that's going to happen.

10 So tell me what properties -- let's
11 just start with properties that you currently
12 own. Can you tell me those?

13 A. Do you want the names of them or
14 the addresses?

15 Q. The addresses, yeah.

16 A. Okay. 330 Middle Street, 2049
17 Rustic Road, 1954 West Grand Avenue, 3643
18 Dandridge Drive, 1300 West Hillcrest, 30 and 32
19 Cambridge Drive, 912 Westwood.

20 Q. 4651 Bluehaven?

21 A. That's an old address. I sold that
22 one.

23 Q. Okay. You sold the property on
24 Bluehaven?

25 A. Correct.

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1 Q. Is that one of the ones that you
2 fixed up and sold?

3 A. Correct.

4 Q. Did you make a profit out of that?

5 A. Yes.

6 Q. How much?

7 A. About 40 to 50 grand probably.

8 Q. When did you sell that?

9 A. Last year.

10 Q. 2022?

11 A. This has went into 2023. So it
12 might have been 2021. But I can get you those
13 records.

14 Q. Was it after this incident?

15 A. Yes.

16 Q. Okay. Other than the Bluehaven
17 one, any other properties that you owned before
18 and then fixed up and sold for money or profit?

19 A. Yes. 4704 Forsythe.

20 Q. And what was your profit from that
21 rehab?

22 A. I think like maybe 10,000.

23 Q. Any other ones you can recall right
24 now?

25 A. Not -- not at the time, no.

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1 Q. All right. When did you sell the
2 Forsythe property?

3 A. I'm not sure what year it was, but
4 it was -- it was before -- let me see. I'm sure
5 it's in the -- in the auditor's, the county
6 auditor's. I'm not sure.

7 Q. Okay. The ones that you said that
8 you currently own, you live in the West Grand
9 one, right?

10 A. No.

11 Q. Oh. Is that a different West Grand
12 address?

13 A. 1709 West Grand is where I live at
14 now.

15 Q. That's right, 1709 West Grand. But
16 1954 you currently own too?

17 A. Correct.

18 Q. Do you own 1709?

19 A. No, I do not.

20 Q. You rent that?

21 A. Correct.

22 Q. Who is your landlord there?

23 A. Enhanced Estates.

24 Q. Who is Enhanced Estates? Like is
25 there a person that you deal with?

1 A. Jamila Cobb.

2 Q. How much do you pay in rent?

3 A. Right now, it's like 1,375,
4 utilities included.

5 Q. And that's a house?

6 A. It's a three-bedroom like loft
7 apartment type.

8 Q. Okay. You said it was Apartment --

9 A. 3.

10 Q. 3, yeah.

11 A. Uh-huh.

12 Q. Okay. So do you rent out, then,
13 these other properties, 330 Middle, the Rustic
14 one, the 1954 West Grand, Dandridge, Hillcrest,
15 Westwood, Cambridge?

16 A. Correct.

17 Q. Do you rent out all of those
18 currently?

19 A. Yes. Yes. Well, not Cambridge,
20 but all the rest of them other than Cambridge
21 and Hillcrest.

22 Q. And did you -- and you purchased
23 all of those properties, or did you -- did you
24 get -- did you -- how did you acquire all of
25 those properties?

1 A. Yeah, when I got them, they wasn't
2 rentable. I had to put money into them in order
3 to get them rehabbed and ready to rent. So they
4 were pretty much fixer uppers, so I got them
5 kind of cheap.

6 Q. I mean, did you go through -- like
7 the city has a program to give out, you know,
8 vacant, abandoned, dilapidated properties. Did
9 you ever go through that, or who did you --

10 A. They were private owners. Private
11 owners.

12 Q. And you would pay a cheap price for
13 those because they were in bad condition?

14 A. Correct.

15 Q. And you would fix those up, and
16 then you've rented those out?

17 A. Rented them out, correct.

18 Q. All right. We're going to go into
19 the rental income that you receive. Can you
20 tell me basically for each of these properties
21 what your rental income is for those?

22 A. Yes, I can.

23 Q. What is it?

24 A. Let's see. For -- which property
25 do you want to start at? Give me my list, and I

1 can tell you.

2 Q. Let's start Middle Street.

3 A. Middle Street, let's see, \$850 a
4 month.

5 Q. Okay. Let's go Westwood.

6 A. 600 a month.

7 Q. All right.

8 A. Are you talking about now or then,
9 because --

10 Q. Well, let's talk about, say, in the
11 last year, because I'm going to show you some
12 receipts that we got that you prepared for 2021.

13 A. Right.

14 Q. 600 in 2021 for Westwood?

15 A. It was 550 at first, but then it
16 went up, so I'm not sure which.

17 Q. Okay. Let's go -- Bluehaven you
18 sold, right?

19 A. Correct.

20 Q. Let's go Rustic Road.

21 A. \$850 a month.

22 Q. 1954 Grand?

23 A. 550 each unit, I believe.

24 Q. How many units?

25 A. Four units.

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1 Q. Four units?

2 A. Correct.

3 Q. Any other rental properties that
4 you can think of that we haven't talked about?

5 A. No.

6 (Thereupon, Defendants' Exhibit 1,
7 rent receipts, was marked for purposes of
8 identification.)

9 BY MR. BAZELAK:

10 Q. Mr. Owensby, I'm showing you what
11 has been marked as Defendants' Exhibit 1. Can
12 you identify what these are?

13 A. Yes, these are rent receipts.

14 MS. SMITH: Take a look at all of
15 them.

16 BY MR. BAZELAK:

17 Q. They are receipts that were signed
18 by you for rental payments made to you; is that
19 fair?

20 A. Correct.

21 Q. All right. And it looks like the
22 dates on them are for 4-1-2021 up until --

23 A. Are these copies or the same?

24 MS. SMITH: I'm assuming all the
25 pages are different. They have different dates

1 on them.

THE WITNESS: Okay.

3 BY MR. BAZELAK:

4 Q. The dates are up at the very top.

5 | Did you fill these out?

6 A. Yes.

Q. All right. 4-1-2021 and then the
last one is 7-1-2021. If we can go through
them. There's one for 1954 Grand, correct, West
Grand?

11 A. Correct.

12 Q. 912 Westwood, right? It's the
13 second page.

14 A. Yeah. Okay, it has different
15 multiple addresses on there. But yes, I'm
16 following you.

17 Q. 330 Middle Street is at least one
18 there?

19 A. Correct.

20 Q. There's one for Bluehaven. So that
21 was maybe before you sold the property?

22 A. Correct, before I sold the
23 property.

Q. There's Rustic Road, correct?

25 A. Correct.

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1 Q. Westwood, Derrick Hutchinson?

2 A. Yeah. I thought we already said
3 that one, but yes.

4 Q. Okay.

5 A. I didn't hear you say Middle
6 Street.

7 Q. Yeah, Middle Street is in there
8 too. So those are your -- the people that have
9 paid you these rental payments are identified on
10 there. So David Dewberry, he rents out -- he's
11 one of the renters of 1954 Grand?

12 A. Correct.

13 MR. BAZELAK: Do you want to go
14 ahead and take a short break?

15 MR. WILLIS: Two more minutes.

16 MR. BAZELAK: All right. I'm sure
17 I won't get to a logical stopping spot in two
18 minutes, but that's fine.

19 MR. WILLIS: It doesn't make any
20 difference. We can go now.

21 MR. BAZELAK: It doesn't.

22 MR. WILLIS: I'm hoping they answer
23 promptly.

24 BY MR. BAZELAK:

25 Q. Let's do this first, and then we

Page 37

1 will probably take a short break, and that is
2 these are only rental receipts that we requested
3 in the discovery process and they're from April
4 of 2021 to July of 2021. Why aren't there any
5 other receipts other than from those dates?

6 A. Because that was probably six
7 months prior to -- I didn't know that I needed
8 to have all of them, but I can provide those if
9 need be.

10 Q. All right. So is it fair to say
11 that through this lawsuit, you got a request
12 maybe from your attorney to provide basically
13 proof of rental income, and you just went
14 through and just prepared all these receipts for
15 the times that you can recall, or how did that
16 work?

17 A. No.

18 MS. SMITH: We'll object on the
19 basis of attorney/client privilege,
20 conversations had between us and our client.

21 MR. BAZELAK: That's fair.

22 BY MR. BAZELAK:

23 Q. I'm not asking you about any
24 conversations that you had with your attorney.
25 But in terms of gathering documents for this

Page 38

1 case, as a plaintiff in the case, what did you
2 do in order to provide the proof of your rental
3 income? How did you prepare these?

4 A. I made copies from my receipt book.

5 Q. All right. And, again, why didn't
6 you just go through and do every rental other
7 than from just five months during 2021?

8 A. I'm not sure. I didn't think that
9 it was necessary.

10 MR. BAZELAK: All right, let's take
11 a short break.

12 (Recess taken.)

13 BY MR. BAZELAK:

14 Q. We're back on the record, sir.
15 Before we took the break, we were kind of
16 talking about your rental income. And, again,
17 you have in front of you that Defendants'
18 Exhibit 1 that we identified. And this was the
19 information that we received as proof of your
20 rental income over the years. And it sounds
21 like this isn't all.

22 A. Correct.

23 Q. Correct?

24 A. Correct.

25 Q. So there's additional rental

Page 39

1 payments or cash payments, check payments,
2 whatever it is, from your tenants --

3 A. Uh-huh.

4 Q. -- that have been made that are not
5 reflected in Defendants' Exhibit 1, right?

6 A. Correct.

7 Q. All right. And you said that you
8 could provide that?

9 A. Yes.

10 MR. BAZELAK: And I don't know what
11 our specific request was, Clarissa, in terms of
12 how far back.

13 BY MR. BAZELAK:

14 Q. But if there's anything else that
15 you can provide in response other than this
16 five-month period, we would ask that you do
17 that, provide that to your attorney, okay?

18 A. Yes.

19 Q. And are all these tenants -- this
20 is, again, four or five months in 2021, are they
21 still currently your tenants?

22 A. Yes. Well, all but Daniel
23 McDougal. I have a new tenant in that
24 apartment. As well as Andrea Alexander, she
25 don't stay at Apartment 2 anymore, but she is a

Page 40

1 tenant at 330 Middle Street.

2 Q. Okay. Do you have a new tenant,
3 then, at Apartment 1?

4 A. Yes.

5 Q. Who is that?

6 A. Cedric Mac -- let me see what his
7 last name is. One second. He just moved in
8 there a few months ago. Cedric Douglas.

9 Q. Okay.

10 A. And that's currently.

11 Q. Okay. Maybe you can tell us this,
12 how much do you estimate that you make on a
13 monthly basis in rental income?

14 A. It's in between four and five
15 thousand a month.

16 Q. Has that been pretty consistent
17 then?

18 A. Yes.

19 Q. For how long?

20 A. For the last few years.

21 Q. When you say few years, since 2013,
22 '14, '15?

23 A. It gradually increased as I
24 purchased other properties, so it -- you'll see
25 an incline or increase over the time from my tax

Page 41

1 returns.

2 Q. All right. We'll get into your tax
3 returns.

4 A. Uh-huh.

5 Q. But let's just go back to, say,
6 2015. So can you give us an estimate of like
7 just rental income in '15?

8 A. I got -- I can't, not right
9 offhand. I'd have to look and see. I don't
10 want to tell you the wrong number, so I just --
11 I'll have to look at it.

12 Q. All right. And, again, you would
13 have documentation of those rental payments --

14 A. Receipts, yes.

15 Q. -- back through that time?

16 A. Correct.

17 Q. So my next question is when you get
18 these -- it looks like there's a lot of cash
19 payments. You're writing out receipts, right?

20 A. Correct. Some money orders, but,
21 you know --

22 Q. So where are you depositing these
23 rental payments?

24 A. Well, sometimes I keep a shoe box
25 and stuff like that. I like to keep my cash at

Page 42

1 home.

2 Q. Okay. So you had some cash that
3 you keep at home, and then do you have bank
4 accounts that you deposit money into?

5 A. Bill money. The bill money I
6 deposit into the bank accounts.

7 Q. Okay. Where is that?

8 A. Wright-Patt Credit Union.

9 Q. Anywhere else?

10 A. Nope.

11 Q. So say back through 2015, any
12 rental payments that you received you would have
13 either kept in cash or deposited in the
14 Wright-Patt account?

15 A. Just the cash that I keep at home.
16 The only money I put in the bank is for the
17 bills that I need to pay out.

18 Q. So let's say starting from the 2015
19 time frame, you said you started generating more
20 and more cash rental receipts and rent payments.
21 How much cash would you have had on hand, say,
22 from 2015 forward?

23 A. I don't know.

24 Q. And with regard to any other income
25 that you would receive through your real estate

Page 43

1 transactions, buying -- the Bluehaven one you
2 sold. Would the proceeds for that go into any
3 bank accounts?

4 A. From the rental -- the sale of the
5 property?

6 Q. Right.

7 A. Correct.

8 Q. To Wright-Patt?

9 A. Yes.

10 Q. All right. And any other income
11 that you would receive from just general work,
12 like subcontracting out and doing work on houses
13 or rehabbing or lawn care, whatever it is --

14 A. Uh-huh.

15 Q. -- that income, you would either
16 keep that income in cash, or if you needed to
17 deposit it, it would be in that Wright-Patt
18 account?

19 A. Yes. I usually keep the cash
20 though. I don't like keeping a lot of money in
21 the bank.

22 Q. All right. So in terms of -- and
23 we'll talk about your income, because we have
24 your tax -- I think we were provided your tax --
25 at least your summary sheets for your taxes for

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1 several years. But in terms of savings, money
2 that you had saved, can you give us any idea as
3 to money that you had saved, say, from 2015
4 forward?

5 A. I don't know. I don't want to just
6 throw a number out there, you know, and not be
7 accurate, so I don't know.

8 Q. Well, is it fair to say that the
9 money that was recovered in this particular case
10 regarding your incident was approximately
11 \$22,500, right?

12 A. Correct.

13 Q. And it's my understanding that you
14 had indicated that that was basically money that
15 you had saved, correct?

16 A. From rental properties and stuff
17 like that, yes.

18 Q. Yeah. So my question is how long
19 had you saved that money and when did you
20 generate that savings?

21 A. It would have been over a period of
22 time. But that wasn't just the rental income
23 money, that was like from the PPP loan that I
24 had got. So some of that money was from the PPP
25 loan.

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1 Q. All right. Let me just ask you
2 about that, because -- and we're going to get
3 into that PPP money, but I don't believe --
4 correct me if I'm wrong, but I don't believe you
5 mentioned anything about the PPP loan being the
6 source of that \$22,000 at the time of this
7 incident. Did you?

8 A. They didn't ask me exactly like
9 where all the money came from. Like I told them
10 that, you know, it's part of my savings and --

11 Q. I understand. But I'm just saying
12 you never indicated that this money is from a
13 PPP loan. You never told that to the police or
14 anybody after this incident?

15 A. No one really ever interviewed me
16 to ask me any of that information, sir.

17 Q. All right. But you indicated it
18 was from savings though. You were interviewed
19 in this case, and you indicated --

20 A. I was in the back of the cruiser
21 when they was asking me that stuff, so I was
22 just telling them -- I didn't get a chance to
23 explain everything. They were trying to arrest
24 me, so -- you understand.

25 Q. That's fine. If you'd just answer

Page 46

1 my question though. You never explained that
2 the money that you had in the vehicle, the
3 22,000 plus dollars, you never -- you never
4 volunteered that information that that was from
5 PPP proceeds, did you? Yes or no.

6 A. Correct.

7 Q. All right. But here today you're
8 telling me that some of that money that you had
9 in terms of cash in the vehicle on the date of
10 this incident was from some federal money that
11 you were provided through the PPP program
12 related to your businesses, correct?

13 MS. SMITH: We'll object. I mean,
14 I think that's what he said, that part of it was
15 savings, including money he got from his PPP
16 loan.

17 BY MR. BAZELAK:

18 Q. Do you know how much of it was
19 related to the PPP?

20 A. Well, I got 18,000 from PPP.

21 Q. Okay. All right. And when did you
22 get the PPP money?

23 A. I'd have to check my records.

24 Q. All right. By the records that we
25 were provided in discovery, it looks like in May

Page 47

1 of 2021, that there was a deposit of about
2 \$18,193 -- no, that's the balance. It was a
3 total of just 18,000, you're right. \$18,000 of
4 a deposit, and it says PPP funding, and that was
5 deposited in the Wright-Patt Credit Union
6 account in May of 2021.

7 A. Correct.

8 Q. Do you agree with that?

9 A. Correct.

10 Q. And then you also on the same day
11 withdrew 18,000 of cash?

12 A. Correct.

13 Q. All right. So was the 18 -- was
14 the \$22,000 that you had in the car that day,
15 was it from this PPP money?

16 A. Most of it, but the rest would have
17 been from my rental income, sir.

18 Q. All right. Now, I think we've
19 asked in discovery for any documentation related
20 to your whole application process to get that
21 PPP money. Have you looked into that?

22 A. That was done online, so I don't
23 have any of that information right now.

24 Q. Well, have you asked whether you
25 could get that from the website that --

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1 A. It's no longer available. It's no
2 longer available.

3 Q. Have you investigated that?

4 A. Can't sign in. I tried to sign in,
5 but it won't -- it won't -- there's nothing I
6 can do about it. The link was expired.

7 Q. Did you try to set up a new account
8 and get into your information? Usually if it's
9 your account, you can get in and get the
10 information that you submitted.

11 A. I didn't know I had that option.

12 Q. Okay. Well, again, I'd ask that
13 you again try to get any documentation regarding
14 your application for PPP funds with the federal
15 government back when you did that, whether it's
16 online or through them, and provide that to your
17 attorney. Okay?

18 A. Can you re --

19 Q. Any documentation related to your
20 PPP application.

21 A. It was done online, so I don't -- I
22 don't have the application to be able to tell
23 you.

24 Q. Well, whether it was online or in
25 paper, you should be able to get access to

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1 printouts or documentation.

2 A. I haven't been able to get into the
3 system to be able to do that. That's what I'm
4 explaining to you.

5 Q. All right. Again, I would request
6 that you get into the account to get any
7 information that you have. You said it expired,
8 but you said you haven't tried to establish a
9 new account and get that information.

10 A. I wasn't aware you can establish a
11 new account.

12 Q. That's what I'm asking you to do is
13 to check into that and see if you can get that
14 documentation. That's all I'm asking.

15 A. No problem.

16 Q. All right. All right. Again, I
17 want to just kind of take it back to the 2015
18 time frame. And do you know approximately what
19 your total income, whether it's rental income,
20 work that you did in your businesses, profit
21 from selling properties, what your total income
22 was say back in 2015?

23 A. I'm not sure.

24 Q. Approximately?

25 A. I'm not sure.

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1 Q. 2016?

2 A. I'm not sure.

3 Q. All right. We've got from tax
4 period through December 2017 it looks like you
5 had an adjusted gross income of \$15,133. Does
6 that sound right?

7 A. I'm not sure, but if that's what
8 the document says -- I'd have to take a look at
9 it.

10 Q. Do you want to take a look at it?

11 A. No problem.

12 Q. Again, this is -- again, these are
13 documents that were provided to us by your
14 counsel I think during our -- during the case.
15 And I won't mark that, but I'll just show that
16 to you.

17 MR. BAZELAK: I probably have an
18 extra copy here for you, Clarissa.

19 MS. SMITH: Thank you. I can just
20 look at this one.

21 THE WITNESS: It looks accurate.

22 BY MR. BAZELAK:

23 Q. Again, this is -- this document
24 that I just showed you is from the Internal
25 Revenue Service, right?

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1 A. Correct.

2 Q. And it's not the tax return that
3 you filed, it's just kind of a summary sheet
4 regarding your account for that year, correct?
5 Is that what it looks like?

6 A. Yes, that's fair to say.

7 Q. And it goes through what your
8 income was, what your potential like refund was,
9 what payments were made, things like that,
10 right?

11 A. I believe so.

12 Q. And in 2013 -- '17, I'm sorry, it
13 looks like again your adjusted gross income was
14 about \$15,133, right?

15 A. I believe so.

16 Q. All right. In 2018, it looks like
17 your adjusted gross income was about 8,443?

18 A. I believe so.

19 Q. All right. And I know that you're
20 looking at the document saying that's what the
21 document says, but I'm trying to get from you
22 just confirmation that that is basically
23 consistent with the amount of income that you
24 think you would have made in 2017 and 2018.

25 A. Can you redo the question? I'm

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1 trying to understand better.

2 Q. Yeah. So these are IRS documents --

3 A. Uh-huh.

4 Q. -- reflecting the income that you
5 received and reported to the IRS for all the
6 income that you received for these years. I'm
7 just -- I'm just asking you does that sound
8 correct in terms of what you earned?

9 A. I'm not sure, because by looking at
10 that, it's not showing me the whole overview.

11 Q. Well, if you would have earned
12 more, you would have reported it to the IRS,
13 right?

14 A. Well, a lot of the income that I
15 earned went right back into the properties, so I
16 invested it back into the company --

17 Q. Yeah.

18 A. -- unless I'm not understanding
19 your question.

20 Q. Well, if it's income, it has to be
21 reported to the IRS. Do you agree with that?

22 A. Right.

23 Q. Yeah. So if it's income, then I'm
24 only trying to find out, are we missing income,
25 a significant amount of income, from these years

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1 based upon the IRS documents? I mean, do you
2 think you made substantially more money than
3 that in 2017 or '18, or is that fair?

4 A. I'm not saying that, but, you know,
5 when you do your taxes, you have deductions and
6 stuff like that that you have to put in, right?

7 Q. Right.

8 A. So would that be accounted as
9 income, or would that be -- I'm not sure what
10 you're asking, because that's not the full --

11 Q. Right. So, again, do you know --
12 if there's a difference there, then can you tell
13 me what that difference is? Do you think --

14 A. I'm not sure.

15 Q. All right. Well, one of the
16 reasons we don't know is because we don't have
17 your tax returns. We've requested your tax
18 returns. Are you able to get your tax returns?
19 It sounds like your mother has been involved in
20 preparing tax returns for all these years.
21 Instead of an amount from the IRS that just says
22 adjusted gross income, so we can look at your
23 deductions, so we can look at everything, and
24 your total income and whether you deducted for
25 business expenses and all of that, can you get

1 that for us?

2 A. I'm not sure.

3 Q. You don't know that it's available?

4 A. I'm not sure. I'll have to look
5 into it.

6 Q. All right. Well, I'd ask you to do
7 that so that we can get the actual tax returns
8 back from 2017, 2018 forward, okay?

9 A. Okay.

10 Q. All right. I'll just go through
11 the rest of them. 2019, it says adjusted gross
12 income 16,092. Do you see that? That's at
13 least what the IRS has as your adjusted gross
14 income for 2019, correct?

15 A. I believe so.

16 Q. All right. 2020, 17,425; is that
17 right?

18 A. I believe so.

19 Q. And then the 2021 tax year, 7,462,
20 correct, as your adjusted gross income?

21 A. I believe so.

22 Q. Correct? Just curious, in 2018, it
23 looks like the adjusted gross income was lower,
24 as it was in 2021. In 2018, it was 8,443. Do
25 you have any idea why it would have been

Page 55

1 significantly lower, about half as the other
2 years, in 2018? Was something going on then?

3 A. What do you mean in 2018?

4 Q. When was your gunshot?

5 A. I believe it might have been 2018.
6 I'm not sure. I'd have to look at the records.

7 Q. Okay.

8 A. I believe it was 2018.

9 Q. Okay. We may come back to more of
10 this financial stuff. Adam will keep me
11 straight on that. Let's talk about -- you have
12 a criminal history, true?

13 A. Yes.

14 Q. All right. Can you tell me --

15 MS. SMITH: We'll object to all
16 questions relating to his criminal history, but
17 you can go ahead and answer.

18 MR. BAZELAK: That's fair.

19 BY MR. BAZELAK:

20 Q. So you have some previous drug
21 charges; is that right?

22 A. Yes.

23 Q. All right. Can you tell me what
24 those are?

25 A. Possession of marijuana.

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1 Q. That was over 200 grams, but less
2 than 1,000 grams, 2006. Does that sound right?

3 A. I'm not sure.

4 Q. All right. Anything else?

5 A. I believe possession of cocaine.

6 Q. Okay. I've got just 2002,
7 possession of cocaine, one gram, less than five
8 grams, crack. And that was a conviction; is
9 that right?

10 A. Correct.

11 Q. All right. And then 2005,
12 possession of cocaine, five grams, but less than
13 ten grams, crack.

14 A. I'm not sure about that.

15 Q. Okay. You don't recall that being
16 a separate charge, drug charge --

17 A. No.

18 Q. -- or conviction?

19 A. I don't -- I don't remember that
20 being --

21 Q. All right. Do you remember in 2013
22 having a weapons under disability --

23 A. Yes.

24 Q. -- charge?

25 A. Yes.

1 Q. And that's related to having a
2 prior drug conviction and possessing a weapon,
3 right?

4 A. I believe -- I believe it was due
5 to having prior drug convictions, the reason why
6 they came up with that charge.

7 Q. Having -- and possessing a weapon
8 when you have a previous drug conviction, right,
9 that's the weapons under disability to your
10 understanding?

11 A. Well, I didn't have a weapon. They
12 said attempt to carry weapons under disability.

13 Q. And was that a conviction?

14 A. I pleaded out to it, yes.

15 Q. You pled out in 2013 to that?

16 A. Correct.

17 Q. That's a felony, right?

18 A. Yes, I believe so.

19 Q. In 2007, you had a carrying a
20 concealed weapon charge. Did you get convicted
21 for that?

22 A. I believe I got probation, if you
23 want to call that conviction.

24 Q. You pled? You pled to that?

25 A. Yeah, I pled to that.

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1 Q. All right. I've got another -- no,
2 that's the same case. Sorry. And I'm not going
3 to go through all your other charges, but you
4 have a lot of traffic charges, right?

5 A. Do you mean like running stop signs
6 and stuff like that?

7 Q. A lot of window tint violations,
8 which is what you were charged with in this
9 case, right?

10 A. I believe so.

11 Q. Have you ever done any jail time?

12 A. Yes.

13 Q. How much?

14 A. 18 months.

15 Q. Where did you serve that?

16 A. What is that? Off Gettysburg. It
17 was MEPRC.

18 Q. What charge was that related to
19 where you had to serve some time?

20 A. I'm not sure.

21 Q. What years; do you remember?

22 A. I believe 2008, 2009.

23 Q. Any other like significant jail or
24 prison time?

25 A. No. I've been rehabilitated since

1 then.

2 Q. Okay. Let's -- you mentioned that
3 you had a lawsuit and you had a settlement that
4 enabled you to kind of invest back into your
5 business. Do you recall that?

6 A. Correct.

7 Q. Can you tell us about previous
8 lawsuits that you've been involved in?

9 A. I wouldn't consider that a lawsuit.
10 That's just a settlement. But the only other
11 lawsuit I believe would have been to get a
12 vehicle back, but I believe that's it.

13 Q. Okay. Well, tell us about the
14 settlement. And you're right, if it wasn't a
15 lawsuit -- it may not have been a lawsuit, but
16 it was a claim or something that you
17 submitted --

18 A. Uh-huh.

19 Q. -- and you got a settlement. Tell
20 me about that one.

21 A. I wasn't at fault. I was hit by
22 another driver, and the insurance paid -- paid
23 me out.

24 Q. How much did you get in that
25 settlement?

Page 60

1 A. I'm not sure.

2 Q. Can you give me an estimate,
3 like --

4 A. It was a couple times that it
5 happened, so I'm not sure. I don't want to give
6 you a number and, you know, I'm not accurate,
7 but I'm not sure.

8 Q. Well, was it, I mean, a couple
9 times it happened? Are you saying two different
10 accidents?

11 A. Correct.

12 Q. A couple different accidents?

13 A. Correct.

14 Q. I have got you had a motor vehicle
15 accident in 2015, correct? Was it related to
16 that one?

17 A. Does it say which vehicle I was in?
18 Because that might help me remember.

19 Q. No, but I can maybe give you some
20 information about it. July of 2015, you were a
21 restrained driver and were struck in the front
22 driver's side. Someone was coming out of an
23 alleyway.

24 A. That was in the Suburban, but I do
25 not remember how much the payout was.

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1 Q. But you did get a payout back in
2 2015 for that?

3 A. Correct.

4 Q. All right. And I'm going to have
5 to try to pin you down a little bit more. I
6 mean, there's a big difference between -- did
7 you get a couple thousand dollars or did you get
8 \$50,000, or \$100,000? You would know the
9 difference, right?

10 A. Yeah, it wouldn't have been a
11 significant amount like that. I would say under
12 ten grand.

13 Q. Okay. That's all I'm interested
14 in. You don't have to give me an exact number.

15 A. Uh-huh.

16 Q. So for that one, you got maybe
17 ten -- under 10,000. Was there any settlements
18 or accidents or claims before that, before 2015?

19 A. I'm not sure.

20 Q. Okay. Was that the one that helped
21 you with your business, investing in the
22 business?

23 A. That was part of it, but, like I
24 said, I've been in a couple accidents prior to,
25 which those -- those settlements actually helped

Page 62

1 me with -- you know, with income and stuff like
2 that. But I'm not sure what dates and stuff
3 like that, because it was just so long ago.

4 Q. How many do you think you've been
5 involved in?

6 A. I'm not sure.

7 Q. How many settlements from insurance
8 companies have you gotten?

9 A. Maybe two or three.

10 Q. Okay. I've got a 2018 motor
11 vehicle accident where you were a passenger. Do
12 you remember that one?

13 A. Yes.

14 Q. What was the settlement for that?

15 A. I believe it was less than ten
16 grand.

17 Q. Did you have attorneys for these
18 claims?

19 A. No. Do you know what, I believe
20 Dyer, Garofalo, Mann & Schultz, but I'm not sure
21 for which one of those -- which one of those
22 that was. But I do believe that that amount
23 probably was over the ten grand amount, because
24 I believe my children was in the car, as well.
25 So they got paid out, as well. So I just can't

Page 63

1 tell you the details, because I don't remember.

2 (Thereupon, Defendants' Exhibit 2,
3 affidavit, was marked for purposes of
4 identification.)

5 BY MR. BAZELAK:

6 Q. Mr. Owensby, I'm showing you what
7 has been marked as Defendants' Exhibit 2. Is
8 that your signature at the bottom?

9 A. I do believe so.

10 Q. Almost the bottom. It's the middle
11 of the page. It says this is -- you're signing
12 an affidavit, and that's your signature, isn't
13 it?

14 A. I believe so.

15 Q. Do you know what that is?

16 A. No. Can you explain it to me?

17 Q. Well, it looks like a case in
18 Common Pleas Court where you were naming the
19 Dayton Police Department as a defendant, and you
20 filed some action back then. Do you recall
21 this?

22 A. I think that was to get the vehicle
23 back that they were trying to seize.

24 Q. Okay. The second paragraph
25 there -- and the date of this is February 10th

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1 of 2016, correct?

2 A. Correct.

3 Q. And the second paragraph says that
4 you were swearing under oath that you didn't
5 have any funds or assets to give cash for court
6 costs at that time; is that right?

7 A. It's possible.

8 Q. Is that true?

9 A. I'm not sure.

10 Q. You're not sure if it was true?

11 A. No, I'm not sure what you're
12 asking. Are you saying I am without funds or
13 assets to give security or cash deposit to
14 secure counsel at that time? Well, if I put it
15 on there at the time, it must have been true.

16 Q. All right. And you think this was
17 a case to get your vehicle back? It wasn't
18 involving a personal injury or anything?

19 A. Yeah, I don't believe it had
20 anything to do with a personal injury.

21 Q. All right. Do you remember an
22 attorney in our office here, Mr. Musto,
23 representing the city in that case?

24 A. I'm not sure.

25 Q. Okay. Any other claims or lawsuits

Page 65

1 that you've been involved in in the past that we
2 haven't talked about?

3 A. Not as I can remember.

4 Q. Have you ever filed any type of
5 workers' compensation claim or anything like
6 that?

7 A. No.

8 Q. All right. Let's shift gears and
9 talk about your -- again, this is before this
10 incident. Let's talk about your prior medical
11 history. Again, in 2015, we talked about that
12 you had that motor vehicle accident. It sounds
13 like you said you were in a Suburban, or a
14 Suburban hit you?

15 A. No, I was in a truck, a Suburban.

16 Q. Okay. And do you recall back in
17 that time frame, 2015, that you went into Miami
18 Valley Hospital after the incident?

19 A. I believe so.

20 Q. All right. And you complained of
21 neck pain and back pain, lower back pain,
22 correct?

23 A. Correct.

24 Q. And so you injured your neck and
25 back during that incident; is that right?

1 A. Yeah. I believe he hit my driver's
2 side, right like where I was sitting. You know,
3 I'm driving down. He came out the alley and hit
4 on that side, yes.

5 Q. Okay. And then in August of 2018,
6 you were involved in another motor vehicle
7 accident where you were treated at Miami Valley
8 Hospital. Do you recall that?

9 A. I believe so.

10 Q. All right. That's one we kind of
11 referenced that you were a passenger in the
12 front seat of the car and somebody rear-ended
13 you and spun you around. Do you remember that?

14 A. I believe so.

15 Q. All right. And you went to the
16 hospital with injuries to your neck, mid back,
17 and right shoulder blade from that accident?

18 A. Correct.

19 Q. All right. And then in December --
20 so we were talking about your tax returns, and
21 we were looking at that tax year of 2018 where
22 your income was -- at least your adjusted gross
23 income was down to like 7,000, and we talked
24 about you had a previous gunshot incident. That
25 didn't happen until early December, December 1st

1 of 2018. Does that sound accurate?

2 A. That does sound accurate, yes.

3 Q. All right. So you were out of
4 commission in terms of making money or at least
5 on your own being able to do stuff after
6 December 2018, correct?

7 A. I believe so.

8 Q. But the previous 11 months you were
9 able to work and generate some income?

10 A. I was physically able to do work
11 and stuff like that until December 1st, 2018.

12 Q. And other than -- we talked about
13 the automobile accident 8-13 where you were
14 released. You didn't stay in the hospital?

15 A. Correct.

16 Q. You just went and got checked out.
17 You had the neck, mid back, and right shoulder
18 injuries, right?

19 A. Correct.

20 Q. All right. Tell me about the
21 gunshot incident. What happened?

22 A. Well, I was shopping at the state
23 liquor store on Salem Avenue, and, I mean, I
24 can't remember exactly the details of what
25 happened, but I believe the guy came in to rob

Page 68

1 the place, and I was -- I was shot in the
2 process.

3 Q. You were shopping at the liquor
4 store, some guy came in, and he had a gun, I
5 guess?

6 A. I believe so.

7 Q. All right. When you say he was
8 robbing the store, I mean, was he -- what did
9 you see exactly?

10 A. I don't remember that incident like
11 that. I really can't tell you much about what
12 happened in that incident, because I really
13 don't remember. I just hear hearsay of what
14 they say happened. So it's a lot of what I was
15 told that happened and stuff like that by other
16 people. So I really don't have a lot of
17 recollection of that incident.

18 Q. You had a weapon that day, right?

19 A. I'm not sure.

20 Q. You haven't learned anything about
21 the incident since that happened?

22 A. No. I heard that it happened on
23 camera, but I haven't yet seen any video,
24 anything like that, no.

25 Q. What have you heard?

Page 69

1 A. I heard that I got shot. That was
2 pretty much it. I didn't get to see the video.

3 Q. Did you fire a weapon that day?

4 A. I'm not sure.

5 Q. You never found out whether --
6 you're not sure whether you had a weapon that
7 day or whether you fired a weapon?

8 A. They never showed me -- they never
9 showed me any video, and I don't remember any of
10 that.

11 Q. Why don't you remember? Were
12 you --

13 A. I'm not sure. I think I almost
14 died, so --

15 Q. I get that. You haven't looked
16 at -- you haven't seen the video?

17 A. No.

18 Q. Were you charged for that?

19 A. No.

20 Q. Was there anybody else that got
21 injured that day, or hurt; do you know?

22 A. I'm not sure.

23 Q. Were you under the influence that
24 day?

25 A. I hadn't had a chance to drink

Page 70

1 anything, because I was just there purchasing my
2 order, and that's when everything happened.

3 Q. Do you know who shot you?

4 A. No.

5 Q. Do you know if he was charged?

6 A. I'm not sure.

7 Q. Again, you don't recall, or you're
8 saying no, that you weren't charged with
9 anything?

10 MS. SMITH: Object to that
11 question. I think he said several times that he
12 doesn't recall what happened that day, that he
13 hasn't seen any evidence, he has no idea.

14 BY MR. BAZELAK:

15 Q. Yep, I understand you don't recall
16 that day. I'm asking if you know if you were
17 charged with a crime after that. And you don't
18 know? You're saying you don't know?

19 A. I don't remember if there was any
20 charges brought up.

21 Q. All right. As a result of that
22 gunshot wound, you suffered serious injuries,
23 correct?

24 A. Correct.

25 Q. You ended up fracturing your spine.

Page 71

1 You had a spinal cord injury that left you with
2 paraplegia, correct?

3 A. I believe so.

4 Q. You had a lung laceration, correct?

5 Do you recall that?

6 A. I believe so.

7 Q. You had your spleen removed?

8 A. I believe so.

9 Q. I think you had some rib fractures;
10 is that right?

11 A. I believe so.

12 Q. You had some kidney damage?

13 A. I believe so.

14 Q. And you were in the hospital and
15 doing rehab for several months, correct?

16 A. I believe so.

17 Q. Another thing that you developed
18 after that gunshot incident over the course of
19 the next several months and years is you
20 developed a pressure ulcer on your backside,
21 correct?

22 A. Yes.

23 Q. And that's basically been an
24 ongoing issue since the time that you had to go
25 through the rehab, right?

1 A. It took a while for it to actually
2 heal, but it did eventually heal.

3 Q. All right. Well, as I understand
4 it just going through your records, you were
5 ultimately discharged from a rehab facility in
6 like January of 2019, and then you followed up
7 for several months with a wound clinic, right?

8 A. I believe that's from the wound
9 being developed from lack of movement.

10 Q. Right.

11 A. Yes.

12 Q. So it's called a pressure ulcer.

13 A. I believe so.

14 Q. Because of your long time -- over
15 the course of hours and hours you're sitting and
16 not being able to get up, you develop these
17 pressure ulcers or sores. So they tried to get
18 you to move and move, but the wound still
19 developed, and you needed to be treated for
20 those, right?

21 A. Correct.

22 Q. All right. And so you went into
23 this wound clinic to go back and get it looked
24 at, get it cleaned out and treated, right, at
25 this wound clinic?

1 A. I believe so.

2 Q. So you went back, and I have in
3 February of 2019 there was a visit. Do you
4 recall that?

5 A. Yeah, because they made me follow
6 up, do follow-up appointments.

7 Q. Yeah. I've got several, several
8 wound clinic follow-ups for that pressure ulcer,
9 whether it was a stage two or stage three,
10 throughout that time, all the way through --
11 well, in 2019 all the way through the end of the
12 year, correct?

13 A. I believe so.

14 Q. All right. By the way, in the end
15 of 2019, you also had another motor vehicle
16 accident. Do you remember that one? A tire
17 blew out, and you slid on the ice and struck a
18 pole?

19 A. I believe so, but I'm not sure. I
20 don't really remember too much about that.

21 Q. All right. You don't recall you
22 complained of back pain related to that? Do you
23 remember that?

24 A. I don't recall.

25 Q. All right. Then do you remember in

Page 74

1 February of 2020, you slid out of your wheelchair
2 and reported pain in your tailbone and had to go
3 to the emergency room for that?

4 A. Yeah, I do -- I remember that.

5 Q. Do you remember what they did for
6 you there?

7 A. There was nothing they could do.

8 Q. There was just a contusion, again,
9 to your kind of backside down there?

10 A. It was bruised.

11 Q. Yeah. Then you're still being
12 treated again here as of 2020, 6-2-2020. So
13 this would have been a year and a half or so
14 after your gunshot incident, you're still being
15 treated for that stage three pressure ulcer and
16 going through debridement procedures. Do you
17 remember that?

18 A. It was follow-ups, follow-up
19 appointments.

20 (Thereupon, Defendants' Exhibit 3,
21 photo, was marked for purposes of
22 identification.)

23 BY MR. BAZELAK:

24 Q. Sir, I have identified or marked
25 Defendants' Exhibit 3 for identification. And

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1 this is a scan dated 6-2-2020 of the pressure
2 ulcer; is that right?

3 A. Correct.

4 Q. All right. So, again, this is
5 December of '18 through 6-2-2020, you're still
6 having issues with getting that pressure ulcer
7 healed at least as of 6-2-2020, correct?

8 A. I believe so.

9 Q. Did they ever tell you like why it
10 never really healed during that time?

11 A. I had to stay off of it, pretty
12 much start doing pressure relief to keep the
13 pressure off of it so it can start healing back,
14 and I had to also like let air -- air get to it
15 in order for it to actually close. So, yes,
16 they did tell me that.

17 Q. Well, they told you kind of what to
18 do to try to get it healed, but it never --
19 despite -- I assume you tried to do that, right?

20 A. Well, I wasn't successful in doing
21 it, because I had to like be up, up in my chair
22 a lot, which, you know, if you're sitting
23 upright, that's the area where -- I don't have a
24 lot of muscle mass and stuff down there, so when
25 I'm sitting up like this, like right now, you

Page 76

1 just pretty much got that bone trying to, you
2 know, pierce through.

3 Q. Yeah. And it's hard to heal, right?

4 A. Well, it started healing, and I
5 actually started gaining some traction to get it
6 healed.

7 Q. And you still had a pressure
8 ulcer -- as of September 30th, 2021, you still
9 had some pressure ulcer that existed on your
10 back, correct?

11 A. It was closed. I had finally got
12 it to close, and it was healing up perfectly.

13 Q. All right. Let's keep going
14 through your medical history here. You
15 basically from, say, February of 2020 or so up
16 through the date of this incident you still were
17 being treated in some Miami Valley Hospital
18 rehab program, right?

19 A. Correct, CORP.

20 Q. And they were working on trying to
21 increase your --

22 A. Strengthening my legs and getting
23 back to --

24 Q. -- ability to move, right?

25 A. -- walk. Correct. They wouldn't

Page 77

1 have allowed me to do that program if I had an
2 open wound, so I had to make sure that I was fit
3 for rehab. They wouldn't have allowed me to do
4 rehab with an open ulcer.

5 Q. All right. Let's -- we're going to
6 talk about the incident and the injuries that
7 you're alleging in this case, but let's talk
8 about the -- that day, September 30th, 2021.
9 You were home in the morning that day, right?

10 A. Correct.

11 Q. And as I understand it, you took
12 your kids to school?

13 A. Correct.

14 Q. And did you take them in the white
15 Audi?

16 A. Correct.

17 Q. That's what you were driving that
18 day?

19 A. Correct.

20 Q. And after you took the kids to
21 school, you went back home and started watching
22 some TV with one of your other kids?

23 A. Correct.

24 Q. And who was that, which child?

25 A. Jerraun. It's my girlfriend's

1 youngest son.

2 Q. Is that who was in the car with you
3 on the date of this incident?

4 A. Correct.

5 Q. It's not your kid?

6 A. Correct.

7 Q. It's your girlfriend's kid?

8 A. Correct, but I claim him as my son,
9 because I help raise him just as the rest of
10 them.

11 Q. All right. And then as you're
12 watching TV with Jerraun -- is that what you
13 said?

14 A. Correct.

15 Q. You're watching TV with Jerraun,
16 and with him you decided to -- you needed to
17 take some cable boxes somewhere?

18 A. I had to go and pick up cable boxes
19 from one of my residences.

20 Q. Who is that?

21 A. 1954 West Grand Avenue, the
22 apartment building.

23 Q. When you say one of your residents,
24 who?

25 A. It was all four of the residents.

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1 I was no longer offering cable as an incentive
2 for the property. Trying to save the company
3 money, so --

4 Q. So you were going to basically just
5 take out their cable and remove the cable box?

6 A. Yes. I informed them prior to that
7 that it was going to be happening, and everybody
8 was okay with it.

9 Q. So you put Jerraun in the back seat
10 then and started heading over to 1954 West
11 Grand?

12 A. Correct.

13 Q. And you didn't have him in a car
14 seat, right?

15 A. He was buckled in in the seat belt.
16 He actually got hisself in the car and buckled
17 hisself in. I wouldn't have been able to get
18 back there to latch him in.

19 Q. My question was he wasn't in a car
20 seat, correct?

21 A. Correct.

22 Q. All right. And you started driving
23 over to West Grand with him buckled in, but not
24 in a car seat, and then you arrived at that
25 location about what time?

Page 80

1 A. If my memory serves me correct, I
2 believe it was in between the 11 and 12:00 hour.

3 Q. And then what did you do when you
4 got in there?

5 A. When I got in where?

6 Q. Did you go inside the residence?

7 A. No, I did not.

8 Q. Weren't you going in there to get
9 the cable boxes?

10 A. I pulled up out in front of the
11 residence, and I called in for the residents to
12 bring the boxes out.

13 Q. Okay. Did they do that?

14 A. Yes, they did.

15 Q. All right. How long were you
16 parked outside of 1954 Grand?

17 A. Maybe 45 minutes, because I had to
18 call the cable company and check the serial
19 numbers on the merchandise they brought out to
20 make sure that I had everything that I was there
21 to collect.

22 Q. What cable company did you call?

23 A. Spectrum.

24 Q. And so you were just sitting
25 outside there. Jerraun is in the back. You're

Page 81

1 sitting outside in the white Audi for about 45
2 minutes outside of 1954 West Grand. You called
3 and spent some time talking to Spectrum.
4 Anything else you were doing?

5 A. Sitting there talking to the
6 residents. They were pretty much standing
7 around the car as they were bringing the stuff
8 out. So just having a casual conversation while
9 I was on the phone with Spectrum.

10 Q. When did you put the 22,000 plus
11 dollars in the car?

12 A. When I left the house.

13 Q. Why?

14 A. What do you mean why?

15 Q. Why did you put \$22,000 in your car
16 when you left the house?

17 A. Well, I was planning on going to
18 the bank to make a deposit that day, but I
19 hadn't had a chance to do it yet.

20 Q. All right. After 45 minutes
21 elapsed and you said they brought out -- how
22 many cable boxes are we talking about here?

23 A. It wasn't just cable boxes. It was
24 the actual cable boxes and the Wi-Fi equipment.
25 So it was quite -- quite a few items, the modem,

1 the Wi-Fi box, and the cable boxes, as well, per
2 unit.

3 Q. So you said you were talking to
4 these residents. Can you tell me specifically
5 who? Of your residents or tenants, who was
6 there that day?

7 A. I believe one of the tenants left
8 their equipment in the hallway, which another
9 one of the tenants was able to bring out for
10 them. Andrea Alexander, David Dewberry, those
11 were the two tenants that brought out the
12 equipment. The other tenants had left their
13 equipment in the hallway prior to me getting
14 there so that way I can make sure that I could
15 pick them up.

16 Q. All right. This white Audi, had
17 you been pulled over in that vehicle before?

18 A. No.

19 Q. You had been pulled over before for
20 having too dark of a window tint though, right?

21 A. In my vehicles, yes.

22 Q. So you knew that was a violation of
23 law, right, to have too dark of a window tint?
24 Not enough light gets through there. You knew
25 that was a violation of law before you went out

1 that day?

2 A. In my vehicles, my tint was a lot
3 darker than what was on the Audi, so I wasn't
4 sure what that tint breather was or the
5 percentage of that tint. Not sure.

6 Q. All right. So you think at about
7 11 or 12 you arrived at North [sic] Grand, and
8 you were there 45 minutes or so before you left.
9 So it was around 12 to 1:00 p.m. that day that
10 you left that residence. And where were you
11 headed then?

12 A. I was headed back to Spectrum to
13 return the cable boxes that I just picked up. I
14 literally had just gotten off the phone with a
15 female representative from Spectrum, because we
16 were joking about, you know, how long I was on
17 the phone and all of the equipment, because she
18 wanted to know how many TVs I had, et cetera,
19 whatnot.

20 Q. All right. So how soon after you
21 left West Grand did you get stopped by the
22 police?

23 A. I probably made it a few blocks.

24 Q. All right. And so you, I guess,
25 saw lights and siren behind you?

Page 84

1 A. I heard the siren, so I pulled over
2 thinking that they was going to go around me.

3 Q. Okay. So once you heard the siren,
4 you pulled over. You weren't expecting to --
5 for them to come up to you?

6 A. Once I seen them getting out of the
7 car, I mean, apparently they was stopping me.
8 But I had pulled over and parked immediately as
9 soon as I seen the lights.

10 Q. Well, you knew it was the police,
11 right?

12 A. From the sirens, yes.

13 Q. Yeah. You knew -- you saw the
14 police cruiser, and you saw the officer in
15 uniform approaching the vehicle, right? That's
16 why you were stopping?

17 A. Correct.

18 Q. All right. And Officer Carter, who
19 you didn't know the name at the time, but the
20 white officer, approached you on the driver's
21 side, correct?

22 A. Correct.

23 Q. And he contacted you and asked you
24 for your license, ID?

25 A. I believe the first thing he said

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1 was nice car, and then he goes the reason why I
2 stopped you was because your tint is too dark,
3 my man.

4 Q. Yeah. He also -- you agree with
5 this, he also said something about the device
6 you had on your car and asked you what's up with
7 that, is that how you drive, some words to that
8 effect?

9 A. Correct. And I told him sir, I'm a
10 paraplegic.

11 Q. Yeah.

12 A. And he said oh, that's cool. And I
13 gave him my driver's license, and he went back
14 to his cruiser.

15 Q. Yeah. So he knew that you were a
16 paraplegic from the initial encounter you had
17 with him, right?

18 A. I believe so.

19 Q. All right. And then the next thing
20 that happened is the other officer, the black
21 officer on the scene, approached the driver's
22 side -- sorry, mistake -- passenger's side of
23 your vehicle. Do you recall that?

24 A. Yes.

25 Q. All right. And he asked you to

Page 86

1 roll down your window, and then you had to roll
2 it back up a little bit, but he was trying to do
3 the window tint test, right?

4 A. That's what he said.

5 Q. And that's -- you saw him doing
6 that, right?

7 A. I believe so.

8 Q. All right. And you recall him at
9 that time, he asked you about the child in the
10 back seat, correct?

11 A. Correct.

12 Q. You said it's not my kid, it's my
13 girl's kid?

14 A. Correct.

15 Q. He asked you about why the child
16 wasn't in a car seat, right?

17 A. I don't recall him asking me that.

18 Q. All right. You don't recall saying
19 that I was just pulling out from down the
20 street, sir?

21 A. I do remember telling him that I
22 just left from down the street, correct.

23 Q. And then he left, went back to his
24 cruiser, right?

25 A. I believe so.

1 Q. And the other officer was not at
2 the cruiser either. They were both back near
3 the cruiser or in the cruiser. They weren't by
4 your vehicle at that time, right?

5 A. Correct.

6 Q. All right. And then Officer
7 Hammock returned to your driver's side this
8 time, right? This is the African-American
9 officer. Correct?

10 A. Correct.

11 Q. All right. He said what's your
12 name again. You replied Clifford Owensby. Do
13 you recall that?

14 A. Yes.

15 Q. All right. And then he asked you
16 to turn off the car, and you did that, right?

17 A. Yes.

18 Q. Do you need to take a break, sir?
19 At any time, feel free to let me know that. I'm
20 not here to have you be upset. I don't want to
21 do that to you.

22 A. You can go ahead.

23 Q. I think the last question, he asked
24 you to turn off the car, and you did turn off
25 the car, right?

1 A. Yes.

2 Q. And he said he is going to have to
3 have you step out of the car, correct?

4 A. Yes. I replied to him that I can't
5 step out of the car, because I'm a paraplegic.

6 Q. Right. And then after you told him
7 that you were a paraplegic -- you had already
8 told Officer Carter you were a paraplegic.
9 Officer Hammock in response said well, I'll help
10 you get out. He said that, correct?

11 A. I'm not sure. I believe he did say
12 something like that.

13 Q. In fact, he said well, I'll help
14 you getting out. And you said excuse me, and he
15 said I'm going to help you get out. That's what
16 he said, right?

17 A. I believe so.

18 Q. All right. And your response to
19 that was well, I don't think that's going to
20 happen, sir. And you shook your head and said I
21 don't think that's going to happen, sir. Right,
22 that's what you did?

23 A. Before that I asked him could they
24 call a supervisor.

25 Q. Well, I'm asking you in response to

Page 89

1 him saying I'm helping you get out, you shook
2 your head and said I don't think that's going to
3 happen, sir. That's what you said, correct?

4 A. Before all of that happened, sir --

5 Q. We can get into that, but I'm just
6 saying that's what you said, correct?

7 A. Correct.

8 Q. And he said -- he said well, I do,
9 because I'm asking you, but I'm telling you, so
10 it's not an option. And you said can I ask
11 what's the problem. Do you remember that? You
12 said what's the problem?

13 A. Yes.

14 Q. All right. And he told you -- when
15 you asked him what the problem was, he told you
16 that it's because of your history, I'm going
17 to -- going to have to have a dog do a free air
18 around the car, and you have to get out of the
19 car to do that. That's what he told you, true?

20 A. I believe so.

21 Q. All right. And then you still,
22 despite that, said I can't get out of the
23 vehicle, sir. You said that again, I can't get
24 out of the vehicle.

25 A. I told him that I can't step out.

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1 He was demanding me to step out of the vehicle,
2 and he told me that if I didn't step out, then
3 he was going to drag me out, and those were my
4 only two options.

5 Q. Well, we'll get to that. In fact,
6 he said in response to I can't get out of the
7 vehicle -- in fact, he said again, he said sir,
8 I'm going to assist you getting out of the
9 vehicle, as someone else assisted you getting in
10 the vehicle. That's what he said, correct?

11 A. I'm not sure.

12 Q. All right. And after he said that,
13 you said no, no, you're not. No, you're not.
14 You're not going to touch me. You definitely
15 about to touch me, and I'm about to go ahead and
16 get somebody on the line, because I will. It
17 will be a lawsuit if you put your hands on me
18 for no reason, bro. That's what you said. You
19 recall saying that, don't you?

20 A. I recall saying that.

21 Q. And when you said for no reason, he
22 said well, there is a reason. He started to say
23 well, the reason is that I'm asking you to get
24 out of the car. And you said no, no, no, we
25 ain't going to go there. We about to get some

Page 91

1 people here that's about to witness what's going
2 on, right?

3 A. Correct.

4 Q. And do you remember the white
5 officer was also around at that point and said
6 that you've got to step out? He said you've got
7 to step out, bud. Do you remember him saying
8 that?

9 A. I believe so.

10 Q. Do you remember Officer Carter
11 saying something to the effect that we had this
12 situation last night? Do you remember anything
13 about that?

14 A. I remember him saying something
15 like that, but I didn't have a situation with
16 them the night before.

17 Q. Yeah. Well, you may not have
18 known, but are you aware now that they had just
19 had a situation with a disabled individual they
20 stopped the night before who was sitting on a
21 gun? Did you know that?

22 A. I didn't know that.

23 Q. In any event, you did call
24 somebody. You called on your cell phone. Who
25 did you call, by the way?

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1 A. I called my brother.

2 Q. Who is that?

3 A. Lashon Owensby.

4 Q. All right. You said hey, bro, can
5 you come down to the street on Ferguson and
6 Grand. The police just pulled me over and
7 they're trying to make me get out of the car.
8 I'm telling them I'm a paraplegic and I can't
9 get out of the car without no help and shit, and
10 these motherfuckers are trying to fucking --
11 they on some bullshit. Just come down the
12 street. Bring some people with cameras. Come
13 down the street. Bring cameras. Just
14 somebody -- just bring -- just bring somebody so
15 they can witness what's going on. That's
16 essentially what you said, correct?

17 A. Yes.

18 Q. So you weren't calling anybody to
19 assist you to get out of the car, were you? You
20 were calling somebody to witness the incident.
21 That's what you said, right?

22 A. Correct.

23 Q. Well, we already talked about the
24 times Officer Hammock had offered assistance to
25 get you out of the car, but you said I'm not

Page 93

1 getting out. I just told you I'm a paraplegic.
2 I cannot get out. Hammock said sir, I do not --
3 I do not -- I do not want to have to pull you
4 out. And Carter said we're going to help you
5 out then.

6 A. I don't recall.

7 Q. Do you remember that?

8 A. I don't recall that.

9 Q. Well, at that point -- at that
10 point -- after all those conversations, at that
11 point you asked for them to call a white shirt,
12 right?

13 A. I had already asked previous to
14 that for them to call their supervisor, and he
15 goes it doesn't work like that. That's what was
16 said.

17 Q. Right. In response to you asking
18 for a white shirt, they said that they will call
19 a white shirt once --

20 A. After they get me out of the
21 vehicle. After the second time that I asked.
22 The first time he told me it didn't work like
23 that.

24 Q. So I'll just read you the
25 transcript, and you tell me if you think this is

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1 somehow not an accurate depiction of what
2 happened and what words were said.

3 But you said can you call a white
4 shirt, and Hammock said I will once -- if you
5 pull me out of here, you better expect -- you
6 better -- Hammock said so here's the thing, I'm
7 going to pull you out, and then I'll call a
8 white shirt because you're getting out of the
9 car. He said it was not an option for you to
10 stay in the car. He told you that, right?

11 A. I believe something like that.

12 Q. And you -- again, you said I'd like
13 you to call for a white shirt. He said I will
14 when I'm done, but you have to get out of the
15 car. That's what he said, right?

16 A. I believe so.

17 Q. By the way, a white shirt is your
18 understanding of a --

19 A. Supervisor.

20 Q. -- supervisor, right?

21 A. Correct.

22 Q. All right. All right. It's at
23 that point, after that exchange, Officer
24 Hammock, the African-American officer, reached
25 in and grabbed your left arm and began pulling

1 on it, correct?

2 A. I believe so.

3 Q. All right. You at that point
4 grabbed the steering wheel, right?

5 A. I actually grabbed onto the -- what
6 do you call it, the thing above the driver's
7 seat where you might hang your shirt and stuff
8 like that on. As he was pulling me out, I tried
9 to catch my balance by grabbing onto that.

10 Q. Oh, like the little handle?

11 A. Yes.

12 Q. Okay. You don't dispute that you
13 also -- you grabbed onto the steering wheel at
14 some point?

15 A. With one arm, because he had my
16 left arm like trying to yank me out of the
17 vehicle.

18 Q. Your right arm -- your right hand
19 you grabbed the steering wheel?

20 A. Correct.

21 Q. Left hand, right hand, grabbing
22 onto something.

23 A. I grabbed onto the thing with my
24 right arm, and then I grabbed the steering wheel
25 afterwards trying to keep my balance inside the

Page 96

1 vehicle.

2 Q. Right. And you did that because
3 you didn't want to get out of the vehicle,
4 right?

5 A. No.

6 Q. No what?

7 A. I didn't -- it wasn't about me not
8 wanting to get out of the vehicle. He was
9 trying to yank me out of the vehicle, and I was
10 trying to tell him that I needed help getting
11 out. That wasn't the way that I was expecting
12 to get help to get out of the vehicle.

13 Q. Right. You were not allowing them
14 to assist you out of the vehicle, correct?

15 A. Can I say something?

16 Q. If you answer my question. It's a
17 simple -- it's a simple question.

18 A. I understand that.

19 Q. You were not allowing them -- maybe
20 you have a reason, sir. Maybe you have a
21 reason. I'll give you a chance to say that.
22 I'm just asking you that you were not allowing
23 them to take you out and assist you out of the
24 vehicle?

25 A. I need you to understand something.

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1 Q. True or false? Just true or false?

2 True or false first?

3 A. False.

4 Q. False. Okay.

5 A. Now can I say something?

6 Q. Sure, explain.

7 A. Those same two officers pulled me
8 over 18 months prior to this situation, and they
9 wanted to do the same exact thing, wanted to run
10 the dog around the vehicle and all of that, and
11 they called for a white shirt at that time. I
12 did not have to get out of the vehicle at that
13 time. Now you can go ahead with whatever
14 questions.

15 Q. When is the first time that you
16 indicated that you had been pulled over by these
17 officers 18 months prior?

18 A. Nobody ever gave me an opportunity
19 to say that.

20 Q. Is today the first time that you
21 said that to anybody?

22 A. No. No.

23 Q. To any law enforcement?

24 A. I told the Professional Standards
25 Bureau this. And they showed up with maybe ten,

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1 12 cops. The supervisor showed up then, and he
2 allowed for them to search the vehicle while I
3 was in the vehicle.

4 Q. Do you know -- do you know now that
5 there's a policy that mandates -- that requires
6 occupants of a vehicle to be removed from the
7 vehicle to do a free air sniff? Are you aware
8 of that?

9 A. For a window tint? No.

10 MR. WILLIS: I object to that.
11 That's not the law, so I'm advising him not to
12 answer. That simply is not the law.

13 BY MR. BAZELAK:

14 Q. I'm asking you if you're aware of
15 that City of Dayton policy.

16 MR. WILLIS: I told him not to
17 answer. Go to the next question.

18 BY MR. BAZELAK:

19 Q. By the way, did you at any time
20 during the exchange with the officers -- before
21 you were taken out of the vehicle, did you tell
22 them that you had \$22,500 of cash in the car?

23 A. Why would I have to tell them that?

24 Q. You have to answer my question.

25 A. Well, I need you to rephrase the

1 question.

2 Q. The answer is -- you have to -- the
3 answer is -- did you tell them that? If you
4 did, the answer is yes. If you didn't, the
5 answer is no. So is the answer no, you didn't
6 tell them that?

7 A. No, I didn't.

8 Q. All right. Did you ever tell the
9 officers how to help you out of the vehicle?

10 A. They never asked me how to help me
11 out.

12 Q. I'm going to try to get an answer
13 again. So did you ever tell them how to help
14 you out of the vehicle? Did you affirmatively
15 do that? Whether they asked you or not, did you
16 ever tell them how to get you out of the
17 vehicle, yes or no?

18 A. I told the Professional Standards
19 Bureau. So if you -- you're saying officers.
20 They're included with the officers.

21 Q. No, that night at that incident.
22 Did you say anything to the officers about how
23 to get you out of the vehicle, yes or no?

24 A. I don't know.

25 Q. Okay. Did you reference anything

Page 100

1 about equipment or wheelchair, wheelchairs or
2 anything about how to assist you out of the
3 vehicle? Did you say anything to them about
4 that?

5 A. I don't know. I don't believe we
6 got that far.

7 Q. Eventually some people did come
8 that you had called to come there to witness it,
9 right?

10 A. Actually, only one person came that
11 I called. The rest were just innocent
12 bystanders who were witnessing the situation.

13 Q. Do you think it's unreasonable for
14 the officers that night to think that you
15 possibly could have had a weapon?

16 A. Yes.

17 Q. Eventually they got your hands off
18 the steering wheel, took you out of the vehicle.
19 You were on the ground. Eventually they got you
20 handcuffed and put you in the back of the
21 cruiser, correct?

22 A. Yes.

23 Q. At any time did any of the officers
24 strike you or punch you?

25 A. I don't know.

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1 Q. Did any of the officers at any time
2 Tase you?

3 A. No.

4 Q. Did they pepper spray you?

5 A. No.

6 Q. Did a supervisor or a white shirt
7 eventually come to the scene?

8 A. Eventually.

9 Q. And you talked to that supervisor.
10 Do you remember that conversation?

11 A. Yes.

12 Q. What do you remember about that?

13 A. He was automatically assuming that
14 I was wrong when he got there and told me that
15 he didn't believe that any of the stuff that I
16 had told him about happened, like I was making
17 it up.

18 Q. Well, it's on videotape, so -- and
19 I think -- I assume he knew it was -- there were
20 body cameras there, right?

21 A. I would assume.

22 Q. Eventually then you went to the
23 hospital to get checked out after this incident,
24 correct?

25 A. Yes.

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1 Q. And that was at Kettering Hospital,
2 if I recall?

3 A. Grandview.

4 Q. Yeah, sorry, it's Grandview.
5 It's -- Kettering is the -- it's a Kettering
6 affiliated hospital. But you went to Grandview,
7 you're right. Correct?

8 A. Yes.

9 Q. Do you need to take a break?

10 A. No.

11 Q. And at the emergency room, you
12 said -- you reported pain in the left hip and
13 low back, correct?

14 A. And my side and my back and my neck
15 and stuff, yes.

16 Q. All right. And they did a bunch of
17 tests, correct?

18 A. Yes.

19 Q. And there were no fractures that
20 were discovered related to this incident,
21 correct?

22 A. I'm not sure. They never let me
23 see any results. They just released me to the
24 custody of the police.

25 Q. Well, they diagnosed you with low

Page 103

1 back pain, numbness and tingling of the lower
2 extremity, bilateral leg and foot pain, some hip
3 pain, and pressure from the pressure ulcer. Do
4 you -- does that sound correct?

5 A. When I was laying in the bed, I
6 started noticing some discharge coming from my
7 backside once the nurse came in and checked me,
8 and she told me that my pressure ulcer was
9 reopened.

10 Q. Okay. Let me ask you about that.
11 So who noticed the blood, you or somebody else?

12 A. The nurse.

13 Q. The nurse noticed the blood. And
14 then they checked out your back. And then what
15 did they do for it there?

16 A. She put a bandage and stuff over
17 it, and then they just released me to the police.

18 Q. And then at some point later that
19 night, correct me if I'm wrong, Officer Carter
20 actually assisted you into a vehicle that night,
21 correct?

22 A. Once I got back to the station.
23 But when we got to the -- when we got to the
24 hospital, they didn't even want to help me get
25 out of the vehicle. They didn't try to assist

Page 104

1 me to get out of the vehicle. They told me to
2 get out myself. They wanted me to transfer out
3 of there myself.

4 Q. Well, you did get transferred out
5 of there. Who did it?

6 A. I believe one of the nurses at the
7 hospital helped.

8 Q. But then later Officer Carter, who
9 was actually one of the officers at the scene,
10 the white officer at the scene that night, he
11 actually picked you up and assisted you. It's
12 on video I think. So he assisted you --

13 A. After -- after it was verified that
14 I was a paraplegic and that I needed help and
15 all that, yeah, he tried to assist to try to
16 make hisself look good.

17 Q. Well, they knew you were a
18 paraplegic from the very beginning of the
19 incident. We already established that, right?

20 A. They didn't act like it.

21 Q. What is it that you thought they
22 should do instead of --

23 A. What do you mean?

24 Q. What is it that you think they
25 should have done once it was determined that you

Page 105

1 were not getting out of the car, and they had to
2 get you out of the car, what is it that you
3 think they should have done?

4 A. They could have provided a
5 wheelchair or something to help get me out of
6 the vehicle, for one, so I could have been
7 comfortable getting out of the vehicle.

8 Q. Do you know --

9 A. They didn't have any of that.

10 Q. Do you know why they didn't?

11 A. Your guess is as good as mine.

12 Q. Okay. Well, you sat through their
13 depositions, and they explained that they were
14 concerned that -- about getting you out of the
15 car because -- for your safety and their safety,
16 that was their job to get you out of the
17 vehicle and --

18 MR. WILLIS: I object to that
19 question.

20 MR. BAZELAK: You can object.

21 MR. WILLIS: It was not their job
22 to get him out of the vehicle.

23 MR. BAZELAK: Let me finish it
24 before you object to it.

25 MR. WILLIS: He doesn't have to

Page 106

1 answer that question. You go to another
2 question.

3 MR. BAZELAK: Let me finish it
4 before you object.

5 MR. WILLIS: Okay. Well, I'm going
6 to object.

7 MR. BAZELAK: Okay. Well, let me
8 finish it first.

9 MR. WILLIS: Okay.

10 MR. BAZELAK: Maybe you won't
11 object after I finish.

12 MR. WILLIS: I'm going to object.

13 MR. BAZELAK: Okay.

14 BY MR. BAZELAK:

15 Q. You're aware now that the reason
16 the officers could not take the time to call a
17 supervisor or get you additional assistance to
18 get you out of the car is because for their
19 safety and your safety, they needed to secure
20 the scene and get you out of the car?

21 MR. WILLIS: I object to that.

22 BY MR. BAZELAK:

23 Q. You're aware of that? You're aware
24 of that now?

25 MR. BAZELAK: You can object. He

Page 107

1 can answer.

2 MR. WILLIS: I'll object. Don't
3 answer.

4 THE WITNESS: No, I wasn't aware of
5 that.

6 MR. BAZELAK: There's no basis for
7 him not to answer.

8 MR. WILLIS: Yes, there is a basis.

9 MR. BAZELAK: No, other than you
10 just saying it and telling him not to, but
11 there's no basis.

12 MR. WILLIS: Because what you're
13 saying is incorrect.

14 MR. BAZELAK: Well, he can tell me
15 that.

16 MR. WILLIS: I'm saying it --

17 THE WITNESS: You are incorrect.

18 MR. WILLIS: -- for him.

19 BY MR. BAZELAK:

20 Q. All right, I'm incorrect. Why am I
21 incorrect?

22 MR. WILLIS: Don't answer any more
23 questions along that line. Let me deal with him
24 and the Court and the jury about that whether or
25 not he's correct.

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1 MR. BAZELAK: It doesn't matter.

2 It doesn't matter.

3 BY MR. BAZELAK:

4 Q. So let's talk about -- you had some
5 treatment after this incident by medical
6 providers. I want to go into that. This
7 pressure ulcer that you had treatment for after
8 this incident, you went to the wound clinic for
9 several visits.

10 10-15, 10-22, and 10-29, you went
11 to the wound clinic to get that looked at and
12 treated, do you recall that, after this?

13 A. I believe so.

14 Q. All right. And you had another
15 motor vehicle accident, it looks like, in
16 October of 2022?

17 A. I'm not sure.

18 Q. All right. We'll go through it.
19 Patient reports that you were a restrained
20 driver in a motor vehicle accident. States
21 another car struck them in the front fender
22 driver's door. And you were complaining of back
23 pain, headache, I think, and bilateral leg pain.
24 That's 10-29-2021, emergency department, Miami
25 Valley Hospital. You don't remember that?

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1 A. Oh, yes.

2 Q. So that motor vehicle accident
3 caused you pain in your back and -- lower back
4 and upper back; is that right?

5 A. I don't recall exactly what I told
6 them at the time.

7 Q. And just -- I've been asked this,
8 and I know that you understand it, because
9 you've lived this, but, you know, you make
10 complaints of bilateral leg pain, but -- so you
11 actually can have some feeling in your lower
12 extremities?

13 A. Yes.

14 Q. Right. So you do feel some pain?
15 If you have pain, you have some pain feeling in
16 your legs despite the paraplegia, right?

17 A. Correct.

18 Q. All right. Going back to the wound
19 care, then, after this incident. Again, you
20 have several wound care visits in November and
21 December of -- this is actually 2021. I think I
22 misspoke. So November, December of 2021, and
23 then eventually you had to have a procedure on
24 that wound, correct, in February of 2022?

25 A. Correct.

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1 Q. And you had a removal of the
2 pressure ulcer and a flap closure is basically
3 what it was called. That was the procedure?

4 A. I believe so.

5 Q. And then in May of 2022, you had an
6 incident where you fell forward, hit your knees
7 on the ground, had to go into the hospital, and
8 you had a fracture of your femur, right?

9 A. Correct.

10 Q. All right. That wasn't related to
11 anything to this incident, right? That was a
12 separate incident?

13 A. Well, due to weakness from not
14 being able to move for several months, my wrists
15 basically was weakened. And I use my upper body
16 for everything. So I wasn't able to transfer
17 into the chair the way I usually do, and that's
18 when I broke my femur bone.

19 Q. All right. Then if you think that,
20 that's fine. My question is has any doctor
21 indicated that your fractured femur was related
22 to the incident on September 30th, 2021?

23 A. I'm not sure about the femur bone,
24 but when I got my surgery for my flap-over,
25 whatever they called it, they discovered a piece

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1 of my tailbone lodged in the wound, which was
2 keeping it from healing back properly, and they
3 removed the piece of my tailbone out of the
4 wound.

5 Q. Right. But that was the wound
6 surgery. I'm talking about all your treatment
7 and care you received in May. You were in the
8 hospital for like several days related to that
9 femur fracture, right?

10 A. I believe so.

11 Q. And you were not real happy with
12 the care you received in the hospital that time,
13 right?

14 A. Correct.

15 Q. In fact, you did a Facebook video
16 where you basically said that they tried to kill
17 you in there?

18 A. I felt like they was trying to do
19 something to me.

20 Q. That they intentionally gave you
21 medication to try to kill you. That's basically
22 what your Facebook video said, right?

23 A. I don't -- I'm not sure if I said
24 those exact words.

25 Q. You remember something to that

Page 112

1 effect, right?

2 A. I remember complaining to the
3 hospital about the care, and I asked to speak to
4 a higher person at the hospital, because the
5 person that they had coming in was trying to
6 give me medication that wasn't prescribed to me,
7 yes.

8 Q. In fact, there's a note here from
9 5-10-2022 where you reported that you thought
10 they were using you as an experiment to take
11 your blood, and you don't want to give any blood
12 anymore. Do you remember that?

13 A. I don't recall those exact words,
14 but I did refuse to give blood samples at one
15 point.

16 Q. You told them that you have been
17 cooperating with the physical exams even if you
18 don't want -- but you really don't want to. Do
19 you remember saying something like that?

20 A. No, I do not.

21 Q. You stated that if you don't get to
22 go home, you'll have to start an investigation
23 against the care providers. Do you remember
24 that?

25 A. I told -- I told them that they

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1 needed to have someone higher up to investigate
2 what was going on, because once he administered
3 whatever medicine he did to my IV, I started
4 feeling a whole other way that I wasn't feeling
5 before. So I wanted them to have somebody look
6 into it, correct.

7 Q. Did you file any type of claim,
8 medical claim, malpractice claim --

9 A. No, I did not.

10 Q. -- or look into that? Did you
11 contact an attorney to try to do that?

12 A. No, I did not. I was happy that
13 they were willing to release me after that.

14 Q. All right. Then in June of 2022,
15 you went back to the burn clinic. And basically
16 the wound was healing, about healed?

17 A. They had me doing treatment to
18 make -- to do follow-up after the surgery to
19 make sure that the wound had -- that the surgery
20 had taken as is supposed to, and then they
21 discharged me shortly after that.

22 Q. Well, right. So you were doing
23 well with that back back in March of 2022. It
24 says the patient was -- that you were doing well
25 with the ulcer and flap reconstruction as of

Page 114

1 March '22. Do you agree with that, that you
2 were doing well with it?

3 A. I believe so.

4 Q. And then as of June, they basically
5 discharged you, said you were doing well and
6 that it was basically healed, right?

7 A. I believe so.

8 Q. All right. Since June, have you
9 had any other medical care and treatment?

10 A. No.

11 Q. In fact, the last thing that I have
12 from June is basically after you were
13 discharged, that you were goal oriented, working
14 towards participating more fully in your
15 children's lives, increasing your mobility both
16 throughout the house and in the public, right?
17 That's what the goal was when you were discharged
18 in June of 2022?

19 A. I'm not sure if that's what I told
20 them or that's just what they put in there.

21 Q. All right. So I'm going back to a
22 record we have from July 9th of 2021. So this
23 would have been a month or two before this
24 incident. And you said -- you said that you had
25 this pressure ulcer. You were still at that

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1 time, July of 2021, treating that pressure
2 ulcer, right, with the topical ointment?

3 A. I'm not sure. I'm not sure.

4 Q. Balsam Peru-castor oil two times a
5 day, topical ointment, was being prescribed for
6 you at that point in time?

7 A. I'm not sure if that was to help
8 with the discoloration from the skin or whatnot,
9 but I'm not sure.

10 Q. And there's also a 20 percent
11 topical zinc oxide treatment that you were
12 applying two times a day. These are your
13 continue to take these medications orders in
14 your records if you want to see them.

15 A. That's fine.

16 Q. I mean, you don't disagree that
17 that was being prescribed for you in July of
18 2029 [sic] is to continue using these ointments,
19 right?

20 A. I believe so.

21 MR. LAUGLE: 2021, right?

22 MR. BAZELAK: Yeah.

23 MR. LAUGLE: You said 2029.

24 MR. BAZELAK: Did I say 2029? That
25 means it's time to take a little break and

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1 then -- we'll take a short little break, and I
2 don't have that much more. So we'll take a
3 short little break and reconvene here in a
4 second. Thanks. I appreciate it.

5 (Recess taken.)

6 BY MR. BAZELAK:

7 Q. Back on the record. I just have a
8 few more questions, Mr. Owensby. First of all,
9 we talked about your medical treatment. Have
10 you received any type of treatment for mental
11 health issues, depression, anxiety related to
12 this incident?

13 A. Yes.

14 Q. Who have you received treatment
15 from?

16 A. Mahajan Therapeutics.

Q. What's it called?

18 A. Mahajan Therapeutics.

19 Q. Where is that?

A. It's located on North Main Street.

21 MR. BAZELAK: Do we have those
22 records?

23 MS. SMITH: You should. If not, I
24 can forward them to you again.

25 MR. LAUGLE: I'm not sure if we do.

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1 BY MR. BAZELAK:

2 Q. Who is the therapist that you see
3 there?

4 A. It's a couple. It's two different
5 ladies that I see, but I'm not sure -- I can't
6 remember their names right offhand.

7 Q. When did you start seeing them?

8 A. I'm not sure the exact date, but it
9 was after this incident.

10 Q. Is it affiliated with a hospital at
11 all, or is it just a separate private facility?

12 A. I'm not sure.

13 Q. And what are they doing for you?

14 A. They prescribed me some medicine to
15 try to help me sleep and to help get my appetite
16 back and depression.

17 Q. What are you taking?

18 A. I can't remember the name of the
19 medication, but I can get that information for
20 you.

21 MS. SMITH: If you guys take a
22 look, on August 2nd, a Tuesday, it's the last
23 attachment on an email titled Ongoing Service of
24 Discovery.

25 BY MR. BAZELAK:

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1 Q. So when I said any treatment since
2 June, you have had some treatment since June,
3 but for this -- for therapy?

4 A. Correct. I haven't -- I didn't
5 understand the question at the time, I believe.
6 That's why I was asking you could you be more
7 specific.

8 Q. Well, so let me ask you clearly,
9 since June of '22, you have seen some medical
10 care providers, and it's -- Mahajan Therapeutics
11 is one of them?

12 A. Mahajan Therapeutics, correct.

13 Q. Anybody else? Anybody that you've
14 seen up until present day?

15 A. I went back to Dr. Pedoto to get --
16 I can't remember what it is, but he basically
17 checked out both of my wrists for nerve damage
18 and et cetera.

19 Q. When was that? You don't know?

20 A. Like maybe a month or two ago at
21 max.

22 Q. Nerve damage from what?

23 A. From weakness in my wrists.

24 Q. Did he do anything for you?

25 A. He did like some type of test,

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1 said -- I guess he was testing to see if I had
2 any nerve damage or carpal tunnel, et cetera.

3 Q. What prompted you to go see him?

4 A. Weakness in my wrists that wasn't
5 there before.

6 Q. Okay. Well, we'll go ahead and get
7 those records, additional records. Anything
8 else?

9 A. I can't think of anything at the
10 moment, but if -- it's possible that I might not
11 be remembering everything. So if I can remember
12 anything else, I'll try to forward that
13 information to you all.

14 MR. BAZELAK: All right. And,
15 Clarissa, if you can get us any updated records.

16 MS. SMITH: I will.

17 MR. BAZELAK: I do recall that
18 email you sent, but if there's been anything
19 since then.

20 MS. SMITH: I'll see if I can't put
21 everything in an email and just forward it over
22 again, or maybe just a Zip drive, and then I'll
23 just mail it off to you guys. That will
24 probably be easier.

25 MR. BAZELAK: That's fine.

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1 MS. SMITH: I'll send you the
2 tracking.

3 BY MR. BAZELAK:

4 Q. Have you talked to anybody else
5 about this case, other than your attorneys, in
6 terms of like professionals, like expert
7 witnesses or anything like that? Have you met
8 with like an expert witness to talk about the
9 case?

10 A. What do you consider expert
11 witnesses?

12 Q. Somebody that -- either a physician
13 or a police expert or anything like that.

14 A. Not to my knowledge.

15 Q. All right. You're on Medicare and
16 Medicaid; is that right?

17 A. Correct.

18 Q. And all of your medical bills have
19 been taken care of by Medicare or Medicaid
20 payments, correct?

21 A. I believe so.

22 Q. And if it hasn't been taken care of
23 by Medicare or Medicaid payments, it's been
24 basically written off by the hospitals or the
25 doctors, right?

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1 A. I'm not sure, but I would imagine.

2 Q. Yeah. Well, the only thing you can
3 tell me is has anybody -- has anybody billed you
4 for any out-of-pocket expenses, medical bills,
5 that you have not paid yet that they remain
6 unpaid or that you have paid?

7 A. Not that I'm aware of.

8 Q. All right. Are you making a claim
9 in this case for losing any type of income or
10 wages?

11 A. Yes.

12 Q. All right. Can you put that
13 like -- can you quantify that, put that in any
14 type of numbers in terms of income lost related
15 to the incident?

16 A. I got a couple properties that I
17 was planning on turning for profit that I wasn't
18 able to, you know, complete or, you know, they
19 have been on hold ever since the situation when
20 they took the moneys and, you know, I've been
21 going through everything that I've been going
22 through.

23 Q. All right. Well, that's -- okay.
24 When you said that they took the money, so you
25 are referring to a different case than this

Page 122

1 case. That's the case in Montgomery County with
2 regard to you filed a lawsuit to get the
3 funds --

4 A. Returned.

5 Q. -- taken returned to you, right?

6 That's pending and being basically put off until
7 a later time, right?

8 A. I guess so. I don't -- I thought
9 that it was all tied together, but I guess
10 you're making sense with what you're saying.

11 Q. Got you. All right. Because
12 obviously if you had that money, you could use
13 that in your business, invest it, do whatever?

14 A. Correct.

15 Q. So that's what you're referring to,
16 right?

17 A. (Witness nodding head up and down.)

18 Q. Right?

19 A. Yes.

20 Q. I asked you in the beginning of the
21 deposition about any employees that you have in
22 any of your businesses, and you -- we talked
23 about that, but I don't know if I asked you with
24 regard to CeeJaye and CJ Lawn Care. There's two
25 separate companies?

Page 123

1 A. Correct.

2 Q. Do you have any employees for those
3 companies?

4 A. No.

5 Q. So we've talked about in this
6 deposition all the employees that you have in
7 any of your businesses?

8 A. Correct.

9 Q. Have you kept any type of journal
10 or diary -- you said you like to draw and you
11 like to use your hands and stuff, but have you
12 kept a diary or a journal of anything that's
13 happened relating to this incident or after?

14 A. Do you mean --

15 Q. Written stuff down about --

16 A. My day-to-day stuff that I've been
17 going through?

18 Q. Yep.

19 A. Kind of/sort of.

20 Q. All right. And if you have
21 anything on your own that you've written down in
22 terms of a diary or a journal, notes, or
23 anything to document, you know, what's happened
24 to you, if you could provide those to your
25 attorney.

1 MR. BAZELAK: And I'll make a
2 request for those, Clarissa, if he has got any
3 notes, a journal --

4 MS. SMITH: Okay.

5 BY MR. BAZELAK:

6 Q. Or anything that you've written
7 down, anything to document. I just don't want
8 later you have all these notes that you're going
9 to use at a trial or whatever that I haven't
10 seen.

11 A. Right.

12 Q. If you have them and we're entitled
13 to them, I just want you to turn them over to
14 your attorney. She can look at them and then
15 get them to us. Is that fair?

16 A. Okay.

17 Q. So if you do that, you can just
18 provide them to your attorney.

19 (Thereupon, an off-the-record
20 discussion was held.)

21 (Thereupon, Defendants' Exhibit 4,
22 First Set of Interrogatories of Defendant City
23 of Dayton Directed to Plaintiff Clifford
24 Owensby, was marked for purposes of
25 identification.)

Page 125

1 BY MR. BAZELAK:

2 Q. Okay. Mr. Owensby, I've shown you
3 what's been marked as Defendants' Exhibit 4 for
4 identification purposes. And let's just go to
5 page seven. There's a verification page at the
6 back there. And is that your signature?

7 A. Yes.

8 Q. All right. So you acknowledged
9 there under oath that you had answered all of
10 these questions that were submitted in the state
11 case that we talked about, correct?

12 A. I'll have to look over this to see
13 what you're talking about.

14 Q. Yeah, this is involving the \$22,450
15 US currency, and we had sent out questions for
16 you to answer in that case.

17 A. I believe I remember this.

18 Q. All right. And in the first
19 question, it just asked you the residences that
20 you reside, and you took the Fifth. You pleaded
21 the Fifth Amendment in response to that
22 question, correct?

23 A. Okay.

24 Q. Yes?

25 A. I believe so.

1 Q. All right. And then in paragraph
2 two, it's just asking about your formal
3 education, et cetera. You pleaded the Fifth
4 Amendment, correct?

5 A. I believe so.

6 Q. Then it asks about your employment,
7 where you worked and everything, and you took
8 the Fifth Amendment, correct?

9 A. I believe so.

10 Q. And then paragraph four, basically
11 it's asking you about where you got the \$22,000
12 that we talked about today, right? And then you
13 took the Fifth?

14 A. I believe so.

15 Q. And, again, numerous other
16 questions about the sources of the money that
17 was recovered in the car. And instead of
18 answering basically the source of the income,
19 you took the Fifth Amendment against your rights
20 to protect yourself from self-incrimination?

21 A. I believe so.

22 Q. Why did you do that?

23 MR. WILLIS: Object to why he took
24 the Fifth Amendment, because it states why he
25 took it.

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1 MR. BAZELAK: It's a civil case.

2 MR. WILLIS: But it's not relevant
3 to why you took the money from him.

4 BY MR. BAZELAK:

5 Q. Well, I'm asking you why you took
6 the Fifth Amendment?

7 MR. WILLIS: He doesn't have to
8 explain that. He took it because the
9 Constitution gives him the right to take that,
10 and it's not relevant to whether or not the city
11 was out of order in taking his money.

12 BY MR. BAZELAK:

13 Q. Do you understand what the Fifth
14 Amendment is?

15 MR. WILLIS: Don't answer that
16 question. Get a Court order.

17 MR. BAZELAK: I have this. I don't
18 need a Court order. That's all I need. All
19 right. Anything else?

20 MR. LAUGLE: No.

21 MR. BAZELAK: That's all I have.
22 Thanks.

23 MS. SMITH: Okay. We will read.
24 Thank you.

25 (Thereupon, the deposition was

Page 128

1 concluded at 12:54 p.m.)
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Page 129

1 STATE OF OHIO)
2 COUNTY OF MONTGOMERY) SS: CERTIFICATE
3 I, Karen M. Rudd, a Notary
4 Public within and for the State of Ohio, duly
5 commissioned and qualified,
6 DO HEREBY CERTIFY that the
7 above-named CLIFFORD OWENSBY, was by me first
8 duly sworn to testify the truth, the whole truth
9 and nothing but the truth.
10 Said testimony was reduced to
11 writing by me stenographically in the presence
12 of the witness and thereafter reduced to
13 typewriting.
14 I FURTHER CERTIFY that I am not a
15 relative or Attorney of either party, in any
16 manner interested in the event of this action,
17 nor am I, or the court reporting firm with which
18 I am affiliated, under a contract as defined in
19 Civil Rule 28(D).
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Page 130

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office at Dayton, Ohio, on this 14th day of February, 2023.

Karen M. Rudd

KAREN M. RUDD

NOTARY PUBLIC, STATE OF OHIO

My commission expires 5-21-2027

Page 131

Veritext Legal Solutions
1100 Superior Ave
Suite 1820
Cleveland, Ohio 44114
Phone: 216-523-1313

February 22, 2023

To: Clarissa A. Smith, Esq.

Case Name: Owensby, Clifford v. The City Of Dayton Et Al.

Veritext Reference Number: 5702490

Witness: Clifford Owensby Deposition Date: 2/9/2023

Dear Sir/Madam:

Enclosed please find a deposition transcript. Please have the witness review the transcript and note any changes or corrections on the included errata sheet, indicating the page, line number, change, and the reason for the change. Have the witness' signature notarized and forward the completed page(s) back to us at the Production address shown above, or email to production-midwest@veritext.com.

If the errata is not returned within thirty days of your receipt of this letter, the reading and signing will be deemed waived.

Sincerely,

Production Department

NO NOTARY REQUIRED IN CA

Page 132

1 DEPOSITION REVIEW
2 CERTIFICATION OF WITNESS

3 ASSIGNMENT REFERENCE NO: 5702490

4 CASE NAME: Owensby, Clifford v. The City Of Dayton Et Al.

5 DATE OF DEPOSITION: 2/9/2023

6 WITNESS' NAME: Clifford Owensby

7 In accordance with the Rules of Civil
8 Procedure, I have read the entire transcript of
9 my testimony or it has been read to me.

10 I have made no changes to the testimony
11 as transcribed by the court reporter.

12 _____
13 Date Clifford Owensby

14 Sworn to and subscribed before me, a
15 Notary Public in and for the State and County,
16 the referenced witness did personally appear
17 and acknowledge that:

18 They have read the transcript;
19 They signed the foregoing Sworn
20 Statement; and
21 Their execution of this Statement is of
22 their free act and deed.

23 I have affixed my name and official seal
24 this _____ day of _____, 20 _____.
25

26 Notary Public
27 _____

28 Commission Expiration Date
29 _____
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1 DEPOSITION REVIEW
2 CERTIFICATION OF WITNESS

3 ASSIGNMENT REFERENCE NO: 5702490

4 CASE NAME: Owensby, Clifford v. The City Of Dayton Et Al.

5 DATE OF DEPOSITION: 2/9/2023

6 WITNESS' NAME: Clifford Owensby

7 In accordance with the Rules of Civil
8 Procedure, I have read the entire transcript of
9 my testimony or it has been read to me.

10 I have listed my changes on the attached
11 Errata Sheet, listing page and line numbers as
12 well as the reason(s) for the change(s).

13 I request that these changes be entered
14 as part of the record of my testimony.

15 I have executed the Errata Sheet, as well
16 as this Certificate, and request and authorize
17 that both be appended to the transcript of my
18 testimony and be incorporated therein.

19 _____ Clifford Owensby

20 Sworn to and subscribed before me, a
21 Notary Public in and for the State and County,
22 the referenced witness did personally appear
23 and acknowledge that:

24 They have read the transcript;

25 They have listed all of their corrections
in the appended Errata Sheet;

They signed the foregoing Sworn
Statement; and

Their execution of this Statement is of
their free act and deed.

I have affixed my name and official seal
this _____ day of _____, 20_____.

Notary Public

Commission Expiration Date

Page 134

1 ERRATA SHEET

2 VERITEXT LEGAL SOLUTIONS MIDWEST

3 ASSIGNMENT NO: 5702490

4 PAGE/LINE(S) / CHANGE /REASON

5 _____

6 _____

7 _____

8 _____

9 _____

10 _____

11 _____

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16 _____

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18 _____

20 Date Clifford Owensby

21 SUBSCRIBED AND SWORN TO BEFORE ME THIS _____

22 DAY OF _____, 20_____.
23 _____

24 Notary Public
25 _____

Commission Expiration Date

Veritext Legal Solutions

www.veritext.com

888-391-3376

[& - 28]

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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